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GUAM HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES



Department of Land Management Conference Room ITC Building, Tamuning



Thursday, February 22, 2018 1:40 p.m. to 5:12 p.m.

GUAM/HYBRID LAND USE COMMISSION REGULAR MEETING Department of Land Management Conference Room 3rd Floor, ITC Building, Tamuning, Guam Thursday, February 22, 2018

GLUC MEMBERS PRESENT:

Mr. John Z. Arroyo, Chairman

Mr. Victor F. Cruz, Vice Chairman

Ms. Conchita D. Bathan, Commissioner

Mr. Tae S. Oh, Commissioner

Mr. Hardy I.T. Vy, Commissioner

HYBRID MEMBERS PRESENT:

Ms. Louise Rivera, Mayor of Tamuning-Tumon-Harmon

Ms. Melissa Savares, Mayor of Dededo

Mr. Jessy Gogue, Mayor of Ordot-Chalan Pago

STAFF PRESENT:

Mr. Michael J.B. Borja, Executive Secretary

Mr. Marvin Aguilar, Guam Chief Planner

Mr. Frank Taitano, Planner IV

Mr. Penmer Gulac, Planner IV

Ms. Celine Cruz, Planner IV

Ms. Grace Vergara, Planner II

Ms. Cristina Gutierrez, Recording Secretary

Excused: Legal Counsel Nicolas Toft

HYBRID LAND USE COMMISSION



Chairman John Z. Arroyo Vice Chairman Victor F. Cruz Commissioner Conchita D. Bathan

Commissioner Tae S. Oh Commissioner Hardy T.I. Vy

Michael J.B. Borja, Executive Secretary Nicolas E. Toft, Legal Counsel (OAG)

AGENDA

Regular Meeting Thursday, February 22, 2018

Department of Land Management Conference Room 590 S. Marine Corps Drive, 3rd Floor, ITC Building, Tamuning [As advertised in the Guam Daily Post on February 15th and February 20th, 2018]]

I.	Notation of Attendance	[] Quorum	[] No Quorum

- II. Approval of Minutes
 - GLUC Regular Meeting of Thursday, January 25, 2018
- III. Old or Unfinished Business

Zone Variance

A. <u>Application No. 2017-25</u> Applicant, LZ Company represented by Mark Zhao; Height and Use Variance request, on Lot 5147-3-3NEW in an "R-2" (Multi-Family Dwelling) zone, in the Municipality of Tamuning. [MCoG_DLM 2018-01] [Continuation – GLUC Hearing of December 14, 2017]

Case Planner: Frank Taitano

IV. New Business

Zone Variance

- B. <u>Application No. 2017-30</u>; Applicant, NPLJ, LLC represented by TRM Architects; request for a Zone Variance for Height for the proposed construction of six, seven-story multifamily residences (Dos Amantes Residences), on Lots 5040-11 and 5040-12, in "M-1" (Light Industrial) zone, in the Municipalities of Dededo & Tamuning.

 [MCoG DLM 2018-03] Case Planner: Frank Taitano
- V. Administrative & Miscellaneous Matters
- VI. Adjournment

GUAM/HYBRID LAND USE COMMISSION REGULAR MEETING MINUTES Department of Land Management Conference Room, 3rd Floor, ITC Bldg., Tamuning Thursday, February 22, 2018 • 1:40 p.m. to 5:12 p.m.

I. Attendance

Chairman Arroyo called the regular meeting of the Hybrid Land Use Commission for Thursday, February 22, 2018 to order at 1:40 p.m., noting a quorum.

Present were: Chairman John Arroyo, Vice Chairman Victor Cruz, Commissioner Conchita Bathan, Commissioner Tae Oh, Commissioner Hardy Vy, Mayor Louise Rivera (Tamuning), Mayor Melissa Savares (Dededo), Mayor Jessy Gogue (Ordot-Chalan Pago), Executive Secretary Michael Borja, Chief Planner Marvin Aguilar, Planning Staff Frank Taitano, Penmer Gulac, Celine Cruz, Grace Vergara and Recording Secretary Cristina Gutierrez.

[Excused: Legal Counsel Nicolas Toft]

Chairman Arroyo the Commission is reconvening the Hybrid Commission MCoG DLM 2018-01.

II. Approval of Minutes

<u>Chairman Arroyo</u> noted that the first item on the agenda is the approval of the January 25, 2018 minutes. Members have received the Minutes; Chairman Arroyo was ready to entertain a motion.

<u>Commissioner Bathan</u> made a motion to approve the Hybrid Land Use Commission meeting minutes of January 25, 2018; subject to corrections of minor edits to be submitted to Cristina by close of business today.

Vice Chairman Cruz seconds the motion.

<u>Chairman Arroyo</u> motion by Commissioner Bathan, seconded by Vice Chairman Cruz. There being no discussion, Chairman Arroyo puts the motion to a vote. All in favor of the motion say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioners Bathan, Oh and Vy, Mayors Rivera, Savares and Gogue], all opposed say "nay."

[Motion to approve the HLUC Minutes of January 25, 2018 was passed; 8 ayes, 0 nay]

III. Old or Unfinished Business

Zone Variance

A. <u>Application No. 2017-25</u> Applicant, LZ Company represented by Mark Zhao; Height and Use Variance request, on Lot 5147-3-3NEW, in an "R-2" (Multi Family Dwelling) zone, in the Municipality of Tamuning. [MCoG DLM 2018-01, Continuation from meeting of December 14, 2017]

Chairman Arroyo asked of staff if there was any new information submitted for this application.

Marvin Aguilar refers to the last supplemental report dated December 7, 2017. There was direction from the Commission to Planning staff to inquire on capital improvement work that was to be done for Route 14B. Mr. Aguilar continues to read the supplemental staff report. [For full content/context, refer to attached report.]

On the inquiry as to whether the public notification was served accordingly, Mr. Aguilar presented a Supreme Court ruling to Mr. Toft where the Supreme Court overturned the lower the Court's determination that public notification was specific to the Zoning Law; it was specific to variances and did not apply to zone changes or conditional use applications. Therefore, notice to landowners within the 500-ft radius from the project site was properly satisfied.

[Attachment A – Supplemental Staff report dated December 7, 2017] [Exhibit 1 – Supreme Court Ruling]

<u>Chairman Arroyo</u> in the Minutes of the Tamuning MPC meeting of October 5, 2017, it notes that the MPC does not support the development.

Questions for staff.

<u>Commissioner Oh</u> for clarification; on the notification requirements, the Court ruling states that for any zone variances for conditional use public notification is not required.

<u>Marvin Aguilar</u> public notification with respect to notifying property owners within 500-ft is not necessary for use variances as opposed to a conditional use permit or zone change.

<u>Chairman Arroyo</u> [no additional question of staff] Chairman Arroyo opened the floor to the applicants, and asked that they state their names for the record.

Mark Zhao (with Dr. Peter Lombard)

<u>Chairman Arroyo</u> a couple of issues that came up have been addressed. Where the Commission left off was the applicants' justification for the height/use variances based on the law, and the need for the applicants to strengthen that. Some of the answers provided did not seem to be strong enough to justify the request being made. There are certain conditions under which the Commission can grant a use and height variance to include special conditions regarding the property, issues with the property that makes it unique.

Mark Zhao explained to the Commission that the property is long, narrow and rectangular in shape. It is difficult to place the building on the lot. Mr. Zhao explained that if they stayed with the 3-stories, more land space will be taken up. This will be a problem for proper ingress/egress; secondly, the issue of parking. Mr. Zhao stated that they want to ensure that sufficient parking is provided for the project. A total of 108 parking spaces has been identified in a land area of less than an acre. Thirdly, to ensure that all utility requirements from the government agencies are met and addressed. They will be placing a water tank and creating drainage within the property. Mr. Zhao strongly feels that building up was the only way to make this work.

<u>Dr. Peter Lombard</u> the location of the property is ideal for the purposes of the business, and to be able to provide long, temporary hotel stay for medical patients is an ideal location; close to the airport, close to the hospital. They are limited in their resources, and if they wanted to make best use of the land, preservation of green space and aesthetics it requires them to have a modest height variance for that purpose.

<u>Chairman Arroyo</u> one of the other issues had to do with the construction of the road, and what the applicant had requested was that the construction of this project coincide with the road construction. There was discussion on whether or not that was feasible and/or beneficial to the residents that live in the area and use that road on a daily basis. Chairman Arroyo asked Mr. Zhao if they received a copy of the MPC's resolution.

<u>Mark Zhao</u> responded that they did not receive a copy of the resolution; but, Dr. Lombard was in attendance at the last MPC meeting.

Chairman Arroyo asked Mayor Rivera to mention the concerns of the MPC members.

Mayor Rivera the applicants were invited to the meeting to state their case on overturning the decision that had been made by the MPC. Invited to the same meeting was the Director of Public Works and the planners for the road construction. The information received from DPW at this meeting was not enough for the members of the MPC to overturn their decision; DPW did not provide any information as to when road construction will begin. Council members have stated that all development has to stop until the government fixes YPao Road. Mayor Rivera adds that many promises have been made in the past to resolve the issues with the road, but never kept. This is a good development for the services that they will be providing; but, the MPC is firm on stopping all development until the road is repaired. Mayor Rivera conveyed, on behalf of the MPC and residences of YPao Road, not to move forward with this application.

<u>Chairman Arroyo</u> asked Mayor Rivera if this was a federally funded project, and what type of problems was the MPC anticipating.

<u>Mayor Rivera</u> it is a federally funded project; but, it also goes back to acquiring the properties. Now, that the condemnation is complete they can move forward. The majority of the MPC was not to support the project.

<u>Chairman Arroyo</u> it seems there really isn't any roadblocks to prevent the repairs to YPao Road; it is federally funded, the government now owns the properties needed, there is a start date. Is there anything out in the horizon that the Commission is not aware of that may cause the project not to proceed or for the construction not happen or delayed.

<u>Mayor Rivera</u> not that she was aware of. Mayor Rivera reiterated that it was the Governor and the Director of DPW that stated that the project will move forward; but, the residences do not trust the word of the government because it has been promised before, and for this reason it not being supported at this time. Mayor Rivera asked if the Chairman would allow one of their advisors and a community member as well, to speak on this project.

<u>Chairman Arroyo</u> public comment period was closed at the last meeting; however, because of the new information received, Chairman Arroyo will reopen for public comments.

Any other questions?

<u>Commissioner Oh</u> before the Commission are private property owners who wish to bring a great service to the island. It is a great idea what they are trying to do; but, because of failures that is present within the government's system, we are holding a private citizen hostage to a project that they wish to move forward on. Commissioner Oh stated that he was not comfortable with this. Secondly, is the MPC aware that the applicants are not asking for a density variance. The applicants can currently build what they are planning on building, within three-stories, and this will dramatically increase the footprint. If the footprint is increased egress/ingress would be worse.

Mayor Rivera the MPC is well-aware of this.

<u>Mayor Jessy Gogue</u> asked if it was common for the GLUC to hold meetings without the presence of Legal Counsel.

<u>Chairman Arroyo</u> there was a period in time when Legal Counsel was not assigned to the Commission, and not uncommon that Legal Counsel is not represented at meetings.

<u>Mayor Goque</u> secondly, is there a reason why the court ruling on Sablan versus GLUC was brought up. The whole idea of notification was because the approval of this Younex project was done by the Legislature; some of the standard requirements for an application for variances, for notification versus something that is approved by the Legislature.

Marvin Aguilar you are referring to the Legislature

Mayor Goque the Legislature handled the request from the landowners to grant the variance.

Marvin Aguilar no, they made reference to the Legislature with respect to them granting or approving the Zoning Law.

Mayor Goque understands Mayor Rivera and the MPC's concern. He expressed that he tends to be very critical of applications that come in and may have a potential impact to the surrounding community; and, trying to ensure that the health, safety and welfare of the community is not at risk when large projects are proposed. Mayor Gogue added that this is a rare case where he agreed with the Commission. His concern is that the applicant is limited to three-stories high, and they have not asked for an increase in density. The applicant is authorized up to 32 units but proposing only 26 units and using the balance for commercial space. By keeping it down to three-stories they will have less green space, less footprint for parking; the applicants can build up to three stories without the approval of the GLUC. Potentially what could happen is once their customers have exhausted all available parking on the property they will begin parking on the shoulders of YPao Road making the situation even worse for the residents who traverse the road on a daily basis. By building up, this provides the applicants with the means of maintaining more green space and additional parking. The question he asked was what will residents say in 10 years from now when the clinic is doing well with road-side parking due to lack of parking.

<u>Mayor Rivera</u> this is already happening in the community. Mayor Rivera wants to know who is the enforcing authority is to ensure that conditions placed by the GLUC are followed. The MPC will not improve any new improvements on YPao Road until the road is fixed. At the last meeting, the applicants were invited to the MPC meeting; Dr. Lombard was in attendance and brought the request up before the Council, however, again, the Council voted not to support the project.

[Lengthy discussion ensues on development in Tamuning and the development before the Commission]

<u>Chairman Arroyo</u> the Commission takes the MPC's comments into very serious consideration; however, the decision ultimately lies with the Commission who will make a decision today.

<u>Commissioner Oh</u> the MPC's opinion has been put out, but ultimately, that is why this Board exists to make that decision whether to follow the MPC's decision.

<u>Mayor Melissa Savares (Dededo)</u> at the very first meeting for this application, the question that was asked was the position of DPW, and how far along they were on the plans for the expansion of this roadway. Since then, information has been received; plans are eighty-percent complete, not ready for bidding but the design is completed.

<u>Mayor Gogue</u> the creation of the hybrid commission was to allow Mayors to interject. If the MPC is not in support of a project, he as a Mayor will support what the village of Tamuning wants.

<u>Chairman Arroyo</u> did not believe that the MPC was saying no to the variance application, rather they are saying no to the simultaneous start of the road construction and of the project. Chairman Arroyo asked of Mayor Rivera if the MPC was not going to support the project until after the road construction was completed, and that the MPC will not support any other projects along that road until the road construction is completed.

Mayor Rivera until the road work has begun.

<u>Chairman Arroyo</u> the MPC did not say no to the variance request, but they said no to the start of the construction until construction begins for road repairs.

<u>Mayor Gogue</u> in the proposed Notice of Action it notes that should this project be approved; the applicant will not break ground until the project was placed for bid. This was discussed at the MPC meeting and their decision was still no to the project. And was not sure that the statement Chairman Arroyo made was completely accurate.

<u>Chairman Arroyo</u> explained that he was inferring from what he had read in the resolution that it did not directly say no to the applicant's request for the variance.

<u>Vice Chairman Cruz</u> it will take approximately eight-months to start clearing for building permits if this project is approved today. Vice Chairman Cruz stated that he was not totally supportive of the MPC's decision to stop everyone who will have projects in Tamuning, Tumon. How will it be stopped; how will it be controlled. As a member of the Commission, Vice Chairman Cruz stated that he will not accept the decision of the MPC because it will hold eighteen villages hostage at

the same time if the Commission chooses to accept the MPC's decision on this project. Developers hands will be tied, and reiterated that he was not in support of the Council's decision.

<u>Mayor Rivera</u> the Council is aware of this, and that the MPC's Resolution is a tool that this Commission uses to decide on a project. Mayor Rivera asked that the Commission takes into consideration the concerns of the Tamuning MPC and its residents.

<u>Chairman Arroyo</u> there being no additional comments and/or questions, Chairman Arroyo reopened the floor for public comments.

Jay Arriola (Resident of YPao Road) in a number of occasions where there are developments proposed for Ypao Road, and the residents of Ypao Road have attended the various meetings that the Mayor has hosted, the residents have been informed on what is happening with this proposal. Mr. Arriola made it clear that the residents are unanimous in their opposition to a height variance for this project site, and for this development. Not now, nor when Ypao Road starts construction nor when Ypao Road project is completed. A six-story hotel, commercial development does not belong in this area. How will this developer bring in the trucks, materials at the same time DPW is trying to pave this road. The villages of Yona and the south are very capable of making loud noises to this Commission when their air spaces are invaded; the people of Tamuning can be just as loud. Mr. Arriola is very grateful to the Mayor of Tamuning for presenting the position of Tamuning residents before the Commission. He stressed that the decision of the residents have always been unanimous at all meetings. The only residents who are in support of this project is their neighbor who is proposing it. Even if the road is fixed it will not resolve the issue of congestion in that area; the road is overburdened; it is overly "densified." Mr. Arriola states that the problem is, who allowed it to be so, who allowed all this development to be approved without the roads being fixed. He states that it was this Commission who caused the problems. In Governor Felix Camacho's first term in office, sixteen years ago, his priority for road improvement was Ypao Road; and sixteen years later, it still has not been improved. The whole development of Ypao Road and the permission to present this development should not be contingent on if and when Ypao Road is developed. The development does not fit it, it is a sorethumb, it is a six-story hotel; drive along this road and there are only two and three-story buildings. Mr. Arriola stated it does not fit in. Why does the developer want a hotel at this site? It is because "they want to tower over Talo Verde and look at the ocean!" He goes on to say that the developers bought this property knowing the zoning, the size, and everything else about the property. "If the property was bought contingent on building a six-story and only by my way or the highway, six story hotel, we don't want to listen to the residents, and just comply and build three stories." If this is really a commercial complex, medical complex/condominiums/hotel, whatever it is, we all know it's really a hotel." He feels that there are enough hotels in the area and these hotels do not have enough parking at these hotels and this the reason for people parking on the street.

He represents a number of residents because it is discussed all the time. They are in support of development, thanks all developers for the taxes and all the jobs that it brings; but, when it comes to things like this where you knew the issues with the property, "please don't come here and hoodwink us, and think that his all we can do with it." For the developer to make claims that they are restricted with their property rights by the MPC or Land Use Commission is simply a falsity statement. The property was bought knowing what can or cannot be done. Change the plans. The most significant point that Mr. Arriola wanted to make was it was this Commission that

promised the residents ever since that an occupancy permit will not be issued until the road is done. A six-story hotel simply does not fit in, it will stick out like a sore-thumb. The worse thing is that with other projects that move on they become concrete, abandoned structures that make their homes worthless. In closing, Mr. Arriola asked that the Commission seriously consider the position of the residents whose homes, lives and height is impacted by this height variance application.

<u>Chairman Arroyo</u> seeing no additional public comments, Chairman Arroyo closed the public comment period. Invited the applicants back to the table.

Mark Zhao commented on the following:

- 1. When the property was purchased they did not expect to build a six-story structure. Dr. Lombard and Mr. Zhao's daughter were trying to lease clinic space, and it was Mr. Zhao's idea to develop a clinic and lease other portions of the space. Mr. Zhao studied the area and next to this property towards Talo Verde, a flooding issue was already present and further back was a big ditch, and this was the only property available for development. The original size of the property was bigger; however, the owners wanted to re-subdivide the lot and the owners gave them this very narrow portion of the re-subdivided lots. Mr. Zhao noted that the frontage was still about 100-feet and agreed to the purchase because he felt they can still develop. This was the true situation and not because they had originally intended to build a six-story structure. The restraints from various areas forced them into this situation.
- 2. It was the developer's intent to build a clinic and not a hotel. The hotel idea came in after discussion with Dr. Lombard and the type of surgical service he provides not only to Guam, but to off-island patients. The idea was to allow for space in the structure for patients to stay after surgery. It was a small project that expanded to a larger project.
- 3. Regarding the Mayor's, MPC, Mr. Arriola and residents' concerns; DPW has already issued an RFP for the engineering and construction management contracts. What this tells them is that the repairs to Ypao Road is starting.
- 4. Mr. Zhao does not agree with the statement that the building will be an eye-sore. The building will be built with a good design and it will increase the value of homes in the area.
- 5. On the view the design that is being proposed will not block view corridors; to the back are single family homes; Ironwood is to the other side of the property and this building will not block them; and to the front of the property are all two-story structures. View corridors will not be blocked.
- 6. This is development is for the purpose of a clinic, create value for the development and this is not so much to ask.
- 7. It is an honest project. In closing, Mr. Zhao did not agree with the MPC's decision. This decision is hard to accept and "this kind of attitude, I think, is not good."

In closing, Mr. Zhao did not feel that they are doing any "harmful" to the community by building this development, and asked for the Commission's consideration.

<u>Dr. Peter Lombard</u> all the great points have all been brought up and did not have anything to add to this. Dr. Lombard states that he makes regular visits to Saipan and has some patients who wish to be treated here on Guam, are at loss without a place to stay. As Mr. Zhao stated, it

was not the intent to find a property and to build a hotel. They did not think that the zoning for this area for the types of businesses that are allowed there, and all they can do is to try to mitigate the impact as much as possible. This is their true and humble intent. Dr. Lombard thanks the Commission for their time and defers to the Commission's judgement today.

Chairman Arroyo any questions or comments.

Commissioner Oh mentions that he is a resident of Ypao Road. In his opinion, he did not feel that this development will not be an eye-sore. At a recent annual homeowners' association meeting that was held. Commissioner Oh brought this project was brought to gage the opinions of the residents of Talo Verde; no one was against the project, and it seemed like a lot of the residents supported the project. Commissioner Oh stated that on behalf of some of the residents at Talo Verde, he thinks that this is a great project. This project will add value to the area, and supports this project. When it comes to the use of the lot, the Commission has to consider whether or not this will be a benefit to the community. If the Commission denies this project, how will it impact the community, will it negatively impact the community and this was discussed sufficiently enough today. The Commission members have to consider all these factors.

Mayor Gogue part of the zone law requirements is that when projects like such as this take place, heard and commented by the community; the Mayors are supposed to consult with their MPCs. Mayor Gogue would like to think that the Council is not just residents of Ypao Road, but should come from every corner of that district so that there is a good representation of intelligent people sitting on councils and advising them on the current state of the village and the way they would like to see their village evolve. Mayor Gogue states that he scrutinizes projects very carefully; but, the bottom line as Mayors, they do not put pen to paper and sign a resolution if it is not truly supported by what the community wants.

Mayor Rivera thanked Commissioner Oh on informing the members on the meeting with the homeowners. Many homeowners from Talo Verde have been invited to MPC meetings. And from what she has heard they are using this project as an experiment because many homeowners who live in Talo Verde, business owners, would like to do the same thing. Once this application is approved and it will become a domino effect, and for this reason Mayor Rivera states that is why it has to stop. Residents are against this application and asked that the Commission takes this into consideration.

<u>Chairman Arroyo</u> there being no further comments, Chairman Arroyo stated that there is an application on floor and needs action. Chairman Arroyo called for a 10-minute recess at this point.

[Commission recesses at 2:55 pm and reconvened at 3:05 pm]

<u>Chairman Arroyo</u> called the meeting back to order. Noting that there were no additional comments and/or questions, Chairman Arroyo asked for a motion to be put forward on the application.

Michael Borja (Executive Secretary) before a motion is made, Mr. Borja reminds the members that a quorum under an empaneled hybrid commission shall consist of five members; votes

needed for a hybrid commission is five affirmative votes is required for approval of any commission action in this land use matter.

<u>Commissioner Oh</u> Mr. Chair, I move to approve the applicant LZ Company represented by Mark Zhao; Height and Use Variance request on Lot 5147-3-3NEW, in an "R-2" (Multi Family Dwelling) zone in the municipality of Tamuning; with the following conditions:

- 1. Applicant complies with all Commission and ARC conditions and all permitting requirements;
- 2. Applicant must insert a landscaping plan that expresses open space to encourage green space and shade cover. The plan must be prepared by a certified, licensed landscape design to institute best management practices for the containment of storm water runoff and improving surface water percolation by methods such as installing pervious pavements. Further, such landscaping plan must be submitted to and approved by the Guam Chief Planner; and,
- 3. Applicant shall secure approval from appropriate agencies regarding proper storm water retention during the design and planning to prevent any contribution to current flooding issues in the immediate area.

Chairman Arroyo there is a motion on the floor, is there a second.

Vice Chairman Cruz seconds the motion.

<u>Chairman Arroyo</u> seconded by the Vice Chair. Discussion on the motion.

<u>Commissioner Bathan</u> since the applicant indicated that the upper three stories of the project is going to be a hotel, will the applicant be required to add the ten-percent of the construction cost to be dedicated for landscaping.

<u>Frank Taitano</u> that provision only exists in the hotel zone. Mr. Taitano states that this provision is at the discretion of the Commission. Chief Planner Aguilar adds that in this case, the recommendation is that landscaping is required.

[Discussion ensues]

<u>Mayor Savares</u> the request was for a six-story height variance. The DPW memo states that they are at 80-percent complete on the road expansion project. And if this application is not approved for the six stories can they still build the three-story structure.

<u>Chairman Arroyo</u> if the vote does not pass they can build within regulation. Are there any other comments, discussion on the motion. [None noted]

On the motion, all in favor of the motion please raise your hand [Vice Chairman Victor Cruz, Commissioners Oh, Bathan and Vy], all opposed say "nay."

Chairman Arroyo states that there are only 4 ayes and 3 nay.

Mayor Gogue the Chairman can only vote on a tie ---

Chairman Arroyo I am sorry, there was not enough votes to pass the motion; so, the motion fails.

[Applicant's request was disapproved with a vote of 4 ayes, 0 nay]

<u>Chairman Arroyo</u> a request has been made to reconvene the regular Land Use Commission; then we will continue the next hybrid commission after.

[Chairman Arroyo reconvenes the second Hybrid Commission at 3:22 p.m.]

Present for Hybrid Commission MCoG DLM 2018-03 were: Chairman John Arroyo, Vice Chairman Victor Cruz, Commissioner Conchita Bathan, Commissioner Tae Oh, Commissioner Hardy Vy, Mayor Louise Rivera, Mayor Melissa Savares, Mayor June Blas, Executive Secretary Michael Borja, Guam Chief Planner Marvin Aguilar, Planning Staff Frank Taitano, Celine Cruz, Grace Vergara and Recording Secretary Cristina Gutierrez.

Chairman Arroyo the next item on the agenda --

IV. New Business

Zone Variance

B. Application No. 2017-30, Applicant, NPLJ, LLC represented by TRMA; request for a Zone Variance for Height for the proposed construction of six, seven-story, multi-family residences (Dos Amantes Residences) on Lots 5040-11 and 5040-12, in an "M1" (Light Industrial) zone, in the Municipalities of Dededo and Tamuning. [MCoG DLM 2018-03]. Case Planner: Frank Taitano

<u>Frank Taitano</u> reads the staff report to include purpose, facts, staff analysis/discussion, public hearing results, recommendation, conditions. [For full content of report, see attached report]

[Attachment B – Staff Report dated February 9, 2018]

Chairman Arroyo questions for staff.

Michael Boria questions the number of visitors' and ADA parking available for the development. He notes that out of 853 parking stalls, only 10 are available for visitor's parking and 3 for ADA. Mr. Borja asks how many units for the entire complex.

<u>Frank Taitano</u> responds that as proposed by the applicant, yes; and, that there is a total of 420 units.

<u>Chairman Arroyo</u> there were no additional questions noted, Chairman Arroyo opened the floor to the applicant.

<u>Michael Borja</u> for full disclosure asked if there were any disclosures from members of the staff who are related to this project.

Frank Taitano notes that there is, and not present at this meeting.

Michael Borja the Chief Planner has direct interest in this project and is a member of his staff.

<u>Frank Taitano</u> stated that Mr. Aguilar has vacated his position for this application.

<u>Chairman Arroyo</u> noted for the record that Chief Planner was not present for the meeting. Also, for the record, PowerPoint presentation submitted by the applicant's representative.

<u>Mike Makio</u> thanks the Board for meeting with them today to present the application. Notes the points made by Mr. Borja on ADA and visitors' parking. Also with Mr. Makio today was Mr. David Leon Guerrero who is a Planner and Designer at his office. Mr. Makio continues with his presentation which includes the following:

- 1) Project background the property is a total of 17.14 acres. The significance of this property is that it is part of a federal excess land return. Among one of the challenges were the finding of brownfield contamination;
- 2) Property map; Ariel views of the project site; this project is located in Ukkudu and not along the cliff line;
- 3) Mr. Makio explained that there are visitors' parking and the visitors' center parking and distributed; there are a total of 36 visitor's parking and 8 visitor's spaces in addition to this number;
- 4) Discussion on density;
- 5) Project characteristics; entrance view, isometric view, renderings including street view, plaza view. Mr. Makio explains smart growth/sustainable principles were applied in the masterplan to create a neighborhood environment with onsite services, recreation and exercise amenities;
- 6) Additional renderings of two rock gardens; playgrounds, pool, sports courts, and drawings of garage/ground level and the units;
- 7) Collaboration with agencies (for full content/context for this item, refer to attached Exhibit). GWA was clear that the developer would have to anticipate that the quality of the connections may not be great. The project can be built in phases and they will build as the infrastructure becomes available. Phase I would be setting up the infrastructure, the first building and the community center, bring in Phase II, etc. in order to keep in line the availability of the infrastructure. GWA has acknowledged that they have the amount of capacity to bring in this project; the entire Dos Amantes area is a drainage plateau and has to go somewhere. It the developer's responsibility to catch it, contain in, percolate it, and manage it onsite.
- 8) There are at least three viable entrances and exits to and from the project site. There is a 4th one that will lead out towards Route 3, NCS direction. All the agencies had no issues with the development as it has been proposed;
- 9) Summary on the need for height variance. There is one level of covered parking and remaining levels are the residential levels; it is a height variance and a request for additional floors.
- 10) Additional discussion on the request for height density.

[For full content/context of the power presentation, please refer to attached exhibit.]

Chairman Arroyo any questions or comments.

Vice Chairman Cruz is maintenance parking shown on the rendering.

Mike Makio it's in the total count for parking.

Vice Chairman Cruz complimented Mr. Makio on a very good presentation.

Mayor Savares appreciates Mr. Makio for providing his presentation. This gives the members a clear idea of what will be on the property. Mayor Savares met with the family a few weeks ago while discussing the GPA power plant. They are pleased with the project because development is needed in this area and it is not impacting any immediate villages. This project is acceptable with the MPC. They are still waiting for additional agency reports before the Council makes a decision.

Mayor Savares asked the question whether there were any plans on catchment and to reuse the water.

<u>Mike Makio</u> has done a lot of rainwater catchment all around the island. We are dealing with an ambitious landscape plan for this project. It should be absolutely part of the program.

[Discussion ensues]

<u>Mayor Savares</u> solar panels will be difficult for the seven story structures; but, perhaps solar panels can be used at the community center, pool area, or just to light up the lights. Can reusable energy be used rather than depending on the power plant.

Mike Makio absolutely.

<u>Mayor Savares</u> the road leading to Route 3, and in this particular on the property there are many roads that you cannot to. Will the development be expanding the road leading to the ranch or will DPW?

<u>Mike Makio</u> the word from DPW was that they were already planning on some expansion of the area.

<u>Mayor Savares</u> before making a decision on this application, Mayor Savares and the MPC require additional agency position statements.

Commissioner Bathan how wide are the roads going into the property.

<u>Mike Makio</u> there is a turnaround entrance and that is the road that will take you into the direction of Two Lovers' Point.

Vice Chairman Cruz how wide is the travel portion rather than the width of the easement.

<u>Mike Makio</u> for the first phase of the development they are looking at the 24 plus the landscaping buffers on the right and left sides; you will take up the full 40-feet. Ultimately down the line what will happen is that the strip that is adjacent to the road is actually the applicants for development as well.

<u>Michael Borja</u> the easement for the adjacent lot is much narrower. Inquired if all the lots surrounding this project site are zoned M-1 and owned by one family.

Mike Makio responded that he believed that they were all zoned light industrial and it's a group.

[Discussion ensues on road width.]

<u>Vice Chairman Cruz</u> when turning left it takes you to the next road, will that impede Lot 10 from accessing it.

<u>Mike Makio</u> page 4 of the application explains the traffic impact studies, and calculations are done. What is looked at is the various intersections points and determining how much each of those intersections can handle.

Vice Chairman Cruz how will you access for infrastructure.

<u>Mike Makio</u> infrastructure; Lots 11 and 12, domestic utility plan which will come along the easement. Waste water will use the easement located to the east of the property.

Vice Chairman Cruz will other landowners be able to connect to the system.

Mike Makio yes, GWA recommends the upsizing of capacity.

[Discussion ensues]

Commissioner Bathan will the two lots be consolidated.

Mike Makio yes.

Commissioner Oh this project will be built in phases. Has it been determined how many phases.

<u>Mike Makio</u> the first phase is primarily the infrastructure, community center and the first building. Those pieces together constitute the first part of the development.

[Lengthy discussion ensues on cost of Phase I, road improvements, selling/rental of the units, meters, utilities. It was explained that GWA has requested individual meters for all the units, bus shelters for the children.]

Chairman Arroyo your MPC is in support of this application.

<u>Mayor Savares</u> stated that the MPC supports the application, and has been asked by the Council to proceed with the approval of the application.

<u>Chairman Arroyo</u> if there are no other questions or comments, I will open the floor for public comments.

<u>Public Comments</u> seeing no public comments, Chairman Arroyo closed the public comment period.

Chairman Arroyo any other comments before we proceed with a vote.

Mike Makio talks about smart growth, and this development is a step in the right direction.

<u>Chairman Arroyo</u> noted that there were no other comments, Chairman Arroyo was ready to entertain a motion.

<u>Mayor Savares</u> the project does not impact the main village, and Mayor Savares thanked Mr. Makio and the applicants for their vision.

Chairman Arroyo with that being said Mayor Savares, are you ready to put forward a motion.

<u>Mayor Rivera</u> the second public hearing was at Tamuning along with the MPC members who unanimously are in favor, and fully supports the project.

<u>Mayor Savares</u> motions to approve Application No. 2017-30 for the applicant NPLJ, LLC represented by TRM Architects for a zone variance height request for the proposed construction of six, seven-story multi family residences (Dos Amantes Residences) on Lots 5040-11 and 5040-12, in an M1 zone in the municipalities of Dededo and Tamuning.

Chairman Arroyo would you like to place any conditions on your motion.

Mayor Savares no conditions at this time.

Chairman Arroyo there is a second.

Vice Chairman Cruz seconds the motion.

<u>Chairman Arroyo</u> seconded by the Vice Chairman. Discussion on the motion.

<u>Commissioner Oh</u> suggested that the conditions as recommended by staff be applied to this application.

Chairman Arroyo you would like to amend the motion. Can I have your amendment -

Commissioner Oh the amendment with the following conditions:

1. The applicant shall adhere to all the ARC conditions and requirements as stipulated in their official position statements; and,

2. That the applicant shall also ensure compliance to the one-year time restriction that states a "grading or building permit much be obtained from date of recordation of the Notice of Action, otherwise, the approval as granted by the Commission shall be NULL and VOID per Executive Order 96-26, Section 5."

Chairman Arroyo there is a motion amend the motion.

Mayor Rivera seconds the motion.

<u>Chairman Arroyo</u> no discussion noted on the amendment, the motion was put to a vote; all in favor say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioners Bathan, Oh and Vy, Mayor Savares and Mayor Rivera]

Motion to amend passes unanimously.

<u>Chairman Arroyo</u> on the main motion, any discussion. [Note noted] On the main motion, all in favor say "aye" [Chairman Arroyo, Vice Chairman Cruz, Commissioners Oh, Bathan, Vy, Mayor Rivera and Mayor Savares]

[Motion passed unanimously; 7 ayes, 0 nay]

V. <u>Administrative and Miscellaneous Matters</u> [None noted]

VI. Adjournment

<u>Chairman Arroyo</u> unless there are any other matters under the Hybrid Commission, can I get a motion to adjourn.

Commissioner Oh makes a motion to adjourn today's hybrid commission meeting, seconded by Commissioner Bathan; with all in favor.

The regular meeting of the Guam Hybrid Land Use Commission meeting for Thursday, February 22, 2018 adjourned at 4:40 p.m.

Approved by:

Date approved:

Number 8, 2018

John Z. Arroyo, Chairman
Guam/Hybrid Land Use commission

Transcribed by:

M. Cristina Gutierrez, Recording Secretary

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ATTACHMENT B

DIPÅTTAMENTON MINANEHAN TÅNO' (Department of Land Management) GUBETNAMENTON GUÄHAN (Government of Guam)



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor

February 9, 2018

Memorandum

To:

Chairman, Guam Land Use Commission

From:

Guam Chief Planner

Subject:

Staff Report - Application No. 2017-30, Zone Variance for Lot Nos.

5040-11 and 5040-12, Municipalities of Tamuning and Dededo.

1. PURPOSE:

- a. Application Summary: The applicant, NPLJ, LLC represented by Taniguchi, Ruth, Makio Architects is requesting for a Zone Variance approval for height to construct six, seven story, seventy five feet high, multi-family residential structures (Dos Amantes Residences) on Lot Nos. 5040-11 ad 5040-12, Municipalities of Tamuning and Dededo.
- b. Legal Authority: Title 21, GCA (Real Property), Chapter 61 (Zoning Law) Sections 61616 to 61624 (Variances).

2. FACTS:

- a. Location: The subject site is within the subdivision of Lot 5040 located along Route 14 (Tanguison Beach Road) approximately 2,000 feet from the junction of Route 14 and Route 1.
- **b. Lot Area:** 34,696 SM (Lot 5040-11) + 34,696 SM (Lot 5040-12) = 69,392 Square Meters or 747,000 Square Feet.
- c. Present Zoning: "M-1" (Light Industrial) Zone.
- d. Field Description: The lots are presently vacant and fairly flat with small to medium size trees and ground cover as dominant vegetation.

Re: Staff Report - Application 2017-30, Zone Variance

Lot Nos. 5040-11 & 5040-12 - Municipality of Tamuning & Dededo

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e. Masterplan: Light Industrial as per Official Zoning Map F3- 67S52

f. Community Design Plan: Undesignated

g. Previous Commission Action: February 28, 2008 (Conditional Approval of the Dos Amantes Land Use Master Plan and Zoning Map)

3. APPLICATION CHRONOLOGICAL FACTS:

a. Date Application Accepted: May 9, 2017

b. Date Heard By ARC: August 3, 2017

c. Public Hearing Results: November 28, 2017 (Tamuning) and November 29, 2017

(See Attachment "A")

4. DISCUSSION and STAFF ANALYSIS:

As proposed, the zone variance request for height to construct six, seven story, seventy five feet high, multi-family residential structures (Dos Amantes Residences) on the subject site. The variance requested is to construct six (6) multi-family residential structures 45 feet and 4 stories above the allowable 30 feet and 3 stories height. The proposed six (6) residential structures is to accommodate 70 dwelling units each for a total of 420 units. Two (2) parking stalls are to be provided for each dwelling unit and of the total 840 stalls, 312 stalls are to be covered parking stalls located on the ground (1st) floor of each six residential structure at 52 stalls per structure. The development also proposes to provide 10 visitor parking stalls and 3 ADA accessible parking stalls for a total of 853 parking stalls on site.

Also included in the proposed development is an accessory commercial building to house a community center, a food service area, a day care, 4 small scale residential business areas, storage area and restrooms. In addition, a swimming pool, 4 pavilions, a basketball court, a tennis court, a playground area and bicycle racks are to be provided.

In reference to storm water, the proposed development will provide an approved storm water retention system and appropriate landscaping to address the onsite storm water runoff.

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Pursuant to Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, variances may be granted by the Commission, provided the applicant can justify practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law, that there are exceptional circumstances or conditions applicable to the property or to the intended use that do not apply generally to other properties in the same zone, that the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the neighborhood, that the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan and that the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach area upon which the building is to be constructed, and that such building will not interfere with or adversely affect the surrounding property owner's or the public right to untrammeled use of the beach and it's natural beauty.

In response to:

A. That the strict application of the provisions of Section 61617, 21 GCA would result in practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law.

The applicant provides that;

The allowable density for the site is 598 dwellings. The Planning team laid 598 units on the site plan and found that the dwellings combined with the required parking would cover over 92% of the site. The design team determined that covering the majority of the site with concrete and asphalt would result in a poor precedent for subsequent projects. Further, a development that provides no open space, landscape or outdoor fitness and recreational facilities would provide poor character and poor quality of life. The variance application for height and for additional stories, resulted from designing numerous conceptual layouts aimed at increasing open space and providing recreational amenities.

Additional steps to improve the quality of life include reducing the number of dwellings to 432 units and by placing parking on the ground level of each building we increased the open space ratio even more. As presented the team is proud that we have exceeded 70% open space in the proposed multifamily neighborhood.

Additional, building height and number of stories for the residences allows us to capitalize on smart growth features such as maintaining open green space, properly gathering and treating storm water, using green space to mitigate heat buildup and provide amenities of pools, exercise areas, playgrounds etc.

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The Ukudu area was Masterplanned with the intent to allow for multifamily and multiuse development. The benefits of this approach are the provision of more open, landscaped green spaces and areas for community interaction. Therefore our design includes taller structures to reduce the footprint of the multifamily homes on the property resulting in a much higher ratio of open space to developed space. Communal spaces will include playgrounds, play courts, pools, walk/ jogging paths, BBQ pits and shelters and a banquet hall.

Residence services will include barbershop, hair/nail salon, postal service, convenience store, pharmacy outlets, day care, business center and coffee/tea/pastry shop.

In response to:

B. That there are exceptional circumstances or conditions applicable to the property involved or to the intended use thereof that do not apply generally to other property in the same zone.

The applicant provides that;

Because this is one of the first multi-family residential developments in Ukudu we are at the forefront of addressing issues on a remediated and a "returned" property site.

Because of the lack of existing development and the real need to establish efficient use of infrastructure and an environmentally responsible solution that preserves open space and mitigates the effects of erosion the property faces exceptional circumstances. The properties were part of a Record-of-Decision return of federal excess lands to original landowners and for years the land had been used for quasi-military purposes, some of which created contamination that required remediation.

The properties were in fact mitigated to the satisfaction of EPA and local governing authorities. However several design steps were taken to mitigate unforeseen environmental challenges that may occur in the future and to allow for further natural remediation of impacts to the site.

- 1. Raising the homes off the ground so that there was no direct contact between the homes and the ground.
- 2. These conditions contributed greatly to the decision to utilize the multifamily housing in a manner that allows the site to continue healing with fresh air moving between the residences and the ground.

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3. To stack the residential floors in a taller configuration and using 6 structures so that driveways, sewer lines, waterlines, electrical and data/communication lines can be grouped efficiently and avoid creating a large (inefficient) web of utilities

It would have been a mistake to cover the site entire site with closely spaced homes and parking which traps environmental issues below the surface and exacerbate problems with a <u>web</u> of inefficient infrastructure, hard surfaces and unnatural erosion control.

The environmental remediation and the work from the Record of Decision related to the return of the property affected many of our planning decisions for this residential neighborhood. Including the desire to minimize the number of homes and direct contact with the ground level itself. Lifting the dwellings up off the ground reduced any possibility of latent or long term contamination by allowing fresh air to circulate through the ground floor helping to neutralize conditions like radon.

As there are no multifamily residential homes of this scale in Ukudu. We want to set a positive example in this regard

Landscaping and lighting will run along the entire green space promoting pedestrian friendly & safe sidewalks. Sustainable design features such as direct day lighting, passive ventilation, and will be incorporated into the design of the project. Each unit will have taller low-e windows allowing daylight penetration deeper into the space, minimizing the need for artificial lighting.

In response to;

C. That the granting of Variances will not be materially detrimental to the public welfare or injurious to the property improvements in the neighborhood in which the property is located.

The applicant provides that;

The request for the variance application is based on improving the quality of life for the public.

As mentioned earlier, the allowable density for the site provides for up to 598 homes. The multifamily residential neighborhood project is pursuing only 432 homes with this project.

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Providing 598 homes would essentially cover the entire site with buildings and roads. If the homes were built with the conventional height limits, the quality of life for the residences would suffer and the project would serve as a poor example/precedent for future neighborhoods. Without the height variance infrastructure would be a dense web.

Multi-family housing as proposed provides much more efficient use and distribution of utilities when compared to low-density development. Multi-family housing allows for greater control of infrastructure and reduces the instances and cost of maintenance — where fewer lines result in few line repairs.

The proposed project does not abut any adjacent neighbors and conforms with all required setbacks as stated the Guam Code Annotated.

- Being one the first residential development in the Ukudu will make for safer locations with neighborhood residents monitoring activities in the area. Currently the area is undeveloped with numerous dark spaces at night, which, promotes crime and unwanted activities.
- The Dos Amantes Residences provides jobs and tax revenue to the GovGuam, helping to raise property values and the tax base. Property values for neighbors would benefit with the proposed project and spur community growth in a location previously under developed.
- This project approach enables easier connections to sewer, water and electricity infrastructure, with fewer lines serving more families.
 The plan for the multi-family residential neighborhood preserves open space for natural percolation of rainwater, helping to recharge the water lens.
- The proposed project is locally owned and its multi-use features which will support independent living for seniors and reduction on vehicle reliance and related problems from fossil fuel reliance and air pollution. Neighborhood scale businesses such as convenience stores, fitness spaces, daycares, pharmacies, mail service and established mass transit stops help seniors and the mobility impaired carry on their day to day activities.

In response to:

D. The granting of such Variances will be contrary to the objectives of any part of the Guam Master Plan:

The applicant provides that;

e: Staff Report - Application 2017-30, Zone Variance

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Although our project site at Ukudu is an M-1 Light industrial site, it does have compatible intent with Tumon's H-zone. The intent of GCA Section 61311 could apply to Ukudu, wherein Commercial uses are allowed including hotels, motels and tourist accommodations. "This Zone provides for high intensity development in compatible arrangement of structures and uses in a unique setting. It shall be designed to promote a superior level of convenience, comfort, and amenity within the zone; to encourage safe and pleasant pedestrian circulation; to preserve existing attractions; assure beneficial relationship from principal viewpoints.

- Both Smart Growth Planning and the Northern and Central plans from BSP encourage taller multi level buildings to preserve open space and reduce built footprints on the ground. To protect and maintain recharge for our Northern Water lens.
- The multifamily residential development complies with the M-1 Light industrial Zone (and allowable commercial conditional uses).
- EPA & OSHA air pollution and erosion prevention standards will be met.
 Contractor will be required to comply with all standards before, during, and after construction.
- The outdoor signage will conform to the IBC 2009 and GCA Chapter 61, Part 5 Sign Regulations.
- Parking will comply with GCA Part 4 Section 61531 with 900 spaces that includes AQA & visitor parking.
- No public resources will be blocked from the project site.
- · Local landscape will be incorporated in throughout the project.
- The plaza of the project will promote pedestrian circulation with the development.
- The 432 unit residential project will have a minimal noise, light, and traffic impact of the surrounding areas.
- Lighting will be dedicated to low levels along the sidewalk and noise will be kept within each residential unit. Rehabilitating a blighted property.

Re: Staff Report - Application 2017-30, Zone Variance

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In response to;

E. That, as to Variance(s) from the restrictions of Section 61617, 21 GCA, the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach are upon which the building is to be constructed and that such building shall not interfere with adversely affect the surrounding property owners or the public right to an untrammeled use of the beach and its natural beauty.

The applicant provides that:

Public Access to beaches are unaffected by this development.

As presented in the application packet, the provisions for landscaping, outdoor amenities, sport and fitness amenities, play areas walking paths all greatly improve upon the site which currently lacks aesthetic recreational and commercial value.

In our assessment of the response provided by the applicant in reference to the criterion cited in Section 61617 (Variance Requirements) of Chapter 61 (Zoning Law), 21 GCA, we find that the applicant has provide adequate justification in reference to their request that there are practical difficulties or unnecessary hardship inconsistent with the general purpose and intent of the law, that there are exceptional circumstances or conditions applicable to the property or to the intended use that do not apply generally to other properties in the same zone, that the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the area, that the granting of the variance will not be contrary to the objectives of any part of the Guam Master Plan, that the proposed structures will not adversely affect the surrounding properties or public right to an untrammeled use of the beach and its natural beauty.

In addition, the result of the public hearing shows support from those in attendance, and the submitted ARC position statements are with no objection and therefore conclude that their request is in proper form and context to be considered favorably by the Guam Land Use Commission.

- 5. RECOMMENDATION: Recommend Approval with conditions as follows:
 - A. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement; and

Staff Report - Application 2017-30, Zone Variance

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B. That the Applicant shall also ensure compliance to the 1-year time restriction that states a "grading or building permit must be obtained from date of recordation of the Notice of Action; otherwise the approval as granted by the Commission be "NULL and VOID" per Executive Order 96-26, Section

CASE PLANNER: F.P.TAITANO

Attachments: ARC Memo to GLUC Members



PUBLIC NOTICE

AN APPLICATION HAS BEEN FILED WITH THE GUAM LAND COMMISSION (GLUC) FOR A ZONE VARIANCE FOR HEIGHT AND ADDITIONAL STORIES

APPLICATION DESCRIPTION: PROPOSED 6 CONDOMINIUM (432-UNIT) MULTIFAMILY HOUSING AND PERSONAL SERVICE SHOPS

OWNER: NPLJ LLC

DEVELOPER: NPLJ. LLC

LOT, BLOCK, TRACT, MUNICIPALITY: L5050-11 & L5040-12, TAMUNING AND DEDEDO

PROPOSED ZONE VARIANCE: FOR ADDITIONAL HEIGHT AND ADDITIONAL STORIES

DATE:

PUBLIC HEARING: Dos Amantes Nov. 28, 2017 GLUC MEETING: Dos Amantes FEB 22, 2018

TIME: £ 6 00PM @ 1:00PM

Tamuning Senior Cents DLM Conference Room - ITC Hide

PLACE:

Minutes of Public Hearing

Application No. 2017-30, Zone Variance for Height to construct six, seven story, seventy five feet high, multi-family residential structures (Dos Amantes Residences) on Lot Nos. 5040-11 ad 5040-12, Municipalities of Tamuning and Dededo.

On November 28, 2017 - 6:05 P.M. a public hearing was conducted at the Tamuning Senior Center, present was the applicant's representative, Mr. Michael Makio and staff with Taniguchi Ruth Makio Architects, the Mayor, Ms. Louise Rivera and staff, the Guam Chief Planner, Mr. Marvin Aquilar, the Case Planner and 11 public attendees.

Case Planner called the meeting to order, introduced himself, the application and explained the purpose of the public hearing. He then introduced Mr. Makio who would present and explain the purpose of the application.

Mr. Makio introduced himself, explained the purpose of the request, the location and description of the proposed development and a brief history of the property. Mr. Makio also explained their ongoing consultation with the various Gov't. of Guam permitting agencies/departments to address their requirements as it applies to the proposed development.

The floor was open for comments:

After a number of call to the attendees for any comments or concerns by both Mr. Makio and case planner and no further concern or question was put forth by the attendees case planner thanked those in attendance for taking the time to attend the public hearing.

There being no further questions or concerns the case planner adjourned the meeting at 6:35 P.M.

On November 29, 2017 - 6:32 P.M. a public hearing was conducted at the Dededo Senior Center, present was the applicant's representative, Mr. Michael Makio and staff with Taniguchi Ruth Makio Architects, the Guam Chief Planner, Mr. Marvin Aquilar, the Case Planner and 8 public attendees.

Case Planner called the meeting to order, introduced himself, the application and explained the purpose of the public hearing. He then introduced Mr. Makio who would present and explain the purpose of the application.

Mr. Makio introduced himself, explained the purpose of the request, the location and description of the proposed development and a brief history of the property. Mr. Makio also explained their ongoing consultation with the various Gov't. of Guam permitting agencies/departments to address their requirements as it applies to the proposed development.

Minutes of Public Hearing Application No. 2017-30 (Zone Variance) Lot Nos. 5040-11 and 5040-12 Municipalities of Tamuning and Dededo Page No. 2

The floor was open for comments:

After a number of call to the attendees for any comments or concerns by both Mr. Makio and case planner and no further concern or question was put forth by the attendees case planner thanked those in attendance for taking the time to attend the public hearing.

There being no further questions or concerns the case planner adjourned the meeting at 6:55 P.M.

Frank P. Taitario

Case Planner

Street Address: 90 S. Marine Corps Drive Suite 733 ITC Building Tamuning, GU 96913

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DIPĂTTAMENTON MINANEHAN TĂNO'

(Department of Land Management)
GUBETNAMENTON GUÄHAN
(Government of Guam)



MICHAEL J.B. BORJA Director

DAVID V. CAMACHO Deputy Director

EDDIE BAZA CALVO Governor

RAY TENORIO Lieutenant Governor

February 9, 2018

MEMORANDUM

TO:

Guam Land Use Commission (GLUC) Members

FROM:

Chairman, Application Review Committee (ARC)

SUBJECT:

Summary of Positions Submitted by ARC

RE:

Application No. 2017-30 (Zone Variance)

Listed below is the compilation of Positions taken by the various ARC member agencies as submitted to Planning Division, Department of Land Management. The conditions as imposed by the ARC member agencies are listed when applicable.

DEPARTMENT OF LAND MANAGEMENT (DLM):

DLM recommends approval with the following conditions;

- A. The Applicant shall adhere to all the ARC conditions and requirements as stipulated in their Official Position Statement; and
- B. That the Applicant shall also ensure compliance to the 1-year time restriction that states a "grading or building permit must be obtained from date of recordation of the Notice of Action; otherwise the approval as granted by the Commission be "NULL and VOID" per Executive Order 96-26, Section 5".

GUAM ECONOMIC DEVELOPMENT & COMMERCE AUTHORITY (GEDCA): GEDCA has no objections.

DEPARTMENT OF PUBLIC WORKS (DPW):

DPW recommends approval, subject to the comments as reviewed by the Application Review Committee (ARC) with conditions that building permit application must incorporate all the necessary engineering disciplines needed in the design drawings.

Continuation of Memorandum Ref: ARC Summary of Position Statements - Application No. 2017-30 February 9, 2018 Page 2 of 11

Drawings must also conform to the latest building code edition and include the applicable rules, regulations and ADA requirements.

Attached requirements and conditions provided from the Department of Public Works ("DPW") are as follows:

A. Incorporate the design of the pool for kids and adults in the development plan. Pool must be ADA compliant.

The Department of Public Works, (DPW) has completed its review of the subject application and has no objection to the applicant's request provided the following conditions must be in place:

STORM WATER DISPOSAL

Show storm drainage disposal with details in the final drawings and to be supported by calculations. No run off in the surrounding properties or the streets.

2. TRAFFIC GENERATIONS

A traffic impact analysis study must be coordinated with DPW, Division of Highways (traffic management control section).

- 3. PARKING REQUIREMENTS
 - Show parking lay out and detail of parking stalls (compact, standard and accessible stalls), and must meet the American Disability Act (ADA) requirements.
- 4. ACCESS ROAD

The entrance/ exit, sidewalks and pedestrian must be wide enough for public access and shall be in conformance to the Guam Highway Master Plan. Must be coordinated with DPW, Division of Highways (rights of way section).

5. STREETLIGHTS

The developer shall be responsible for the streetlights and must be coordinated with DPW, Division of Highways (traffic managemen: control section)

6. FLOOD ZONE

The applicant is required to hire a professional engineer to perform hydrologic and hydraulic analysis which meet the current Federal I-mergency Agency (FEMA) for flood insurance study standards and must be licensed to do business in Guam.

- 7. PARKS AND PLAYGROUNDS
 - The construction of parks and playgrounds including landscaping must be design in detail and make use of its physical and biological resources which will have a great impact to the environment.
- 8. SOLID WASTE

Provide solid waste composition

 TRANSPORTATION To coordinate with DPW, Bus Operations Divisions for the bus shelter designated location, and must not hinder the (entry/ exit) public access to the housing area. Continuation of Memorandum Ref: ARC Summary of Position Statements - Application No. 2017-30 February 9, 2018 Page 3 of 11

10. OTHERS

Comply with all the Geotechnical requirements related to site preparations. Ecological planning is needed to ensure the conservation of its resources.

All structure, including accessory, structures, shall not cover more than 30% of the area.

GUAM WATERWORKS AUTHORITY (GWA):

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone variance for height for the proposed construction of six, multi-family residential buildings (Dos Amantes Residences), in an "M-1" (Light-Industrial) zone.

This memorandum shall serve as GWA's position statement to the above zone variance request related to availability of water and sewer infrastructures to serve the above subject lot. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve the property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Given the information provided in the application and field observations, the following comments are conditions for GWA's position in favor of the approval of this zone variance application:

- 1. The applicant must provide GWA with site development plans to construct the proposed development. The applicant is responsible for the water and sewer main extensions necessary to provide service to the proposed development. The site development plans must illustrate the proposed point of connection for water and sewer and is subject to GWA inspection and approval. Submittals shall include water and sewer design calculations and complete drawings and specifications. Design calculations shall include proposed water demand calculations including fire-flow and sewer production calculations.
- 2. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to building permit application submittal. Discussions shall include the proposed water demand and sewer production calculations in order to determine if existing facilities can accommodate the proposed development and if any off-site infrastructure improvements to increase capacity are necessary. The development might be required to provide a looped water system with connections to the water main along Route 3 and to the water main along Route 1, in order to provide sufficient water pressure to the development.
- 3. The off-site water and sewer infrastructure improvements will require prior approval from GWA, must meet GWA standards, be constructed in the public easement or right of way, and shall be subject to inspection by GWA.

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Any infrastructure improvements will be at the expense of the applicant. GWA's approval of the occupancy will be contingent upon the completion of offsite improvements.

The developer shall register maps and documents for new public rights of way or utility easements with the Department of Land Management and provide copies to GWA.

- 4. Developers and subdivision owners who have installed water and/or wastewater pump stations whose sole purpose is to serve only the proposed development or subdivision, and consequently have no excess capacity to serve customers beyond the boundaries of said development or subdivision, shall be required to maintain their own pump station(s) and force main(s) in proper working condition to the satisfaction of GWA.
- 5. A construction manager hired by the developer shall oversee water and sewer infrastructure construction. A quality control document containing construction records and pictures shall be provided to GWA, to document construction practices and installed materials. GWA shall be provided with construction schedules, so that inspections may be conducted during construction.
- 6. The applicant shall install GWA water meters in the public right of way or easement.
- 7. Backflow prevention devices are required for non-residential activities or when a development will be served by a master meter.
- 8. New development is subject to water and/or sewer system development charges
- 9. Privately-owned water tanks might be limited to a maximum fill rate to avoid adverse impacts to the public water system.
- 10. Sewer load discharges to the public sewer system might be limited to certain times of day at certain rates to avoid adverse impacts to the receiving public sanitary sewer system.
- 11. Certain activities are subject to sewer pre-treatment requirements. Grease traps or interceptors are required for food service establishments. Oil-water separators are required for vehicle maintenance activities.
- 12. Only wastewater shall be discharged to the sanitary sewer system. Storm water, pool water, and pool backwash water discharge to the sanitary sewer system is prohibited.
- 13. After a GWA utility service account is opened, the account holder is responsible for informing GWA of onsite activity changes that may affect the account's classification and utility service requirements. Activity changes include, but are not limited to, laundry, food service, and vehicle maintenance activities.

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response (Sept. 29, 2017).

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GUAM POWER AUTHORITY (GPA):

Guam Power Authority has reviewed the application described above and submits the following position statement:

A. Comments and Recommendations Concerning GPA requirements:

- Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
 - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
 - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
 - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
 - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
 - Provide scheduling and magnitude of project power demand requirements for new loads.
 - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
- 2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
- 3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
- 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

B. General Comments:

GPA has no objection to the request subject to the conditions cited above.

BUREAU OF STATISTICS AND PLANS (BSP):

The Bureau of Statistics and Plans (Bureau) has completed its review of the subject application and provides the following comments.

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Land Use. The Bureau finds that the proposed project is within the Tourist/Resort category according to the North and Central Guam Land Use Plan (NCGLUP) Future Land Use Map designations. The NCGLUP is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified as "Tourist/Resort" designation in the Future Land Use Map of the NCGLUP, as stated in Policy LU-1 (f).

Tourist/Resort: The Tourist/Resort land use category applies to areas needed for commercial uses to serve the traveling public, including hotels/motels, condominium-hotels, single family and multiple family residential uses, golf courses and other typical resort services and retail uses. These categories are located primarily along the shoreline and include existing and future tourist and resort areas.

The Bureau has determined that the applicant's multi-level dwelling is consistent with the North and Central land-use plan.

Aquifer Protection. The subject property is located within the boundary of the Ground Water Protection Zone of the Northern Guam Lens Aquifer (NGLA) so any groundwater contamination can have adverse impacts. The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA a sole source aquifer for Guam's drinking water. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply.

The applicant is required to comply with Chapter 10 Section 10100 -101114 of the Guam Soil, Erosion, and Sediment Control Regulation during both pre and post construction of the project and all other applicable regulations regarding the protection of the NGLA.

Erosion Control. The alteration from vegetated areas to impervious surfaces such as buildings, driveways, parking lots, roads and other surfaces that prevent water from filtering into the ground greatly increases runoff during heavy rains or storm events. Studies show that runoff and subsequent erosion and flooding can be directly correlated to increased impervious surfaces. Controlling erosion and sediment runoff is a major factor in the protection of Guam's vital water and other natural resources.

The Bureau requires the applicant to implement best management practices on site to control erosion and sediment before, during and after construction of the project. The applicant is advised to consult with Guam EPA for effective implementation of BMPs. These practices may include but are not limited to the following:

 Install perimeter sediment controls to retain or filter concentrated runoff from disturbed areas to trap or retain sediment before it leaves the residential property. Continuation of Memorandum
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- 2. Minimize unnecessary clearing and grading to preserve existing natural areas.
- 3. Stabilize construction entrance and install necessary perimeter controls and diversions.
- 4. Disturbed areas shall be stabilized as soon as feasibly possible after construction.
- 5. Steep slopes shall be protected from erosion by limiting clearing of these areas.
- 6. Where feasible, schedule construction during dry season.

For detailed information on the above listed practices, we refer the property owners to the CNMI and Guam Stormwater Management Manual, which may be obtained from our website www.bsp.guam.gov under the Guam Coastal Management Program.

Low Impact Development (LID). The project site lies within the Northern Watershed. This area has seen an increase in impervious surfaces throughout the years. Over twenty nine percent (29.42%) of Northern Watershed is developed and 15.05% is impervious. More development means more impervious surfaces, which translates into a greater risk for increased flooding and decreased water quality. Areas with impervious surface rates approaching or exceeding 12 percent to 15 percent will likely experience negative impacts to water quality. Severe degradation can be expected when rates reach 25 percent. In between the years 2005 and 2011, the impervious surface area increased by more than 5.58% according to National Oceanic Atmospheric Administration's (NOAH) Coastal Change Analysis Program (C-CAP). In order to minimize negative impacts best management practices should be incorporated.

The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Impervious surfaces from roads, parking lots, driveways, sidewalks, and rooftops accelerate stormwater runoff.

The Bureau is concerned that once impervious surfaces are installed, pollutants are easily washed into the aquifer. If not managed, this activity can adversely impact Guam's drinking water source and surrounding neighbors if measures are not in place to manage runoff on the property. The applicant is in an area that has seen minimal development and strongly recommends that caution be exercised and that any stormwater drainage carrying pollutants may occur causing a negative impact to the abutting property and the NGLA.

The Bureau applauds the applicants attempt to include smart growth features into the site plans.

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The Bureau acknowledges that the allowable uses and permitted density based on the zoning law would not be the most appropriate use of land and would not provide adequate open spaces and other natural and physical benefits. The Bureau recommends the applicant provide additional "green" features by implementing island bioretention, permeable parking and walkways, living roofs, grassed swales and/or rain gardens as a means achieve even greater stormwater management on their property.

These approaches will add great benefits such as low maintenance, energy savings, aquifer recharge, beautification, and neighborhood collaboration. An electronic file of the guidebook "Island Stormwater Practice Design Specifications" is available on the Bureau's, Guam Coastal Management Program's website www.bsp.guam.gov.

Historical and Archaeological Resources. The Bureau recommends that the applicant provide coordination with Department of Parks and Recreation, State Historic Preservation Office to ensure the preservation, protection, excavation, and evaluation of specimens and sites pursuant to Historical Objects and Sites, 21 GCA, Chapter 76.

Zone Variance consideration: According to Ref: BP 84-0242 of the Attorney General Opinion all the requirements contained in section 17502 must be met before a variance can be granted. Section 17502 of the zoning law provides that no variances may be granted unless it meets the four test of hardships.

(a) That the strict application of the provisions of this Title would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the law:

The purpose of the law is to "establish certain minimum regulations for the protection and promotion of the public health, safety and general welfare of the people of the Territory of Guam, which regulations are deemed necessary in order to encourage the most appropriate use of land, to provide adequate open spaces about buildings for light and air, to prevent undue concentration of population, and to assure adequate provisions for community utilities and facilities such as water, schools, parks and other public requirements." In this case, the Bureau recognizes and is concerned that a practical hardship will be placed on the environment if the applicant builds within the allowable density and permitted uses, which would result in the loss of open space of 92% of the subject lot. Thresholds of impervious surfaces has reached the tipping point in this watershed, in which maintaining 70% of open space within this property is a feature in line with the best use of this land and surrounding area.

The Bureau is believes there is adequate provisions for community services, water and parks. However, the applicant must assure they work with the Department of Education to forecast any potential increase in demand for education services in the surrounding school district.

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(b) That there are exceptional circumstances or conditions applicable to the property involved or to the intended use thereof that do not apply generally to other property in the same zone:

The properties were previously part of a military installation and underwent a comprehensive environmental analysis and was mitigated under the EPA superfund, approved by the U.S. EPA, and accepted by the Government of Guam as having little to no contamination in its soil.

The immediate area itself was a part of single family housing so any soil contamination is minimal and poses no residential health hazards. Under Guam law, any lands returned from the military to the Government of Guam must be zone as Agriculture. As such, the designation of MI is highly questionable, however, the Bureau does not have the research at hand to understand the reasons leading up to the current zone designation. The Bureau has determined that the applicant faces exceptional circumstances as this area beyond the 1,000-foot radius lacks any coherent zoning patterns and the current zone designation does not encourage the most appropriate use of land.

(c) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located;

This project can be deemed as precedence setting and has the potential to encourage other developers to follow similar proposals that may lead to various variances being sought. The Bureau is concerned to the impact to the skyline, and will discuss this effect further in variance test (e). In this situation, the entire area was a former military installation and not unique to the property alone. Mitigation was conducted and cleanups were done to the satisfaction of the U.S. EPA and acceptable to the Government of Guam. The Bureau hopes that this project can serve as an example for future development in surrounding areas to develop in a responsible manner that protects open spaces and natural resources such as our Northern Lens Aquifer.

(d) That the granting of such variance will not be contrary to the objectives of any part of the "Master Plan" adopted by the Commission or Legislature

The applicant's proposal is to develop multi family dwelling units. The objective of all master plans is to build in an orderly manner that would be the basis for all future developments in the surrounding area. The North and Central Guam Land Use Masterplan calls for Tourist/Resort in which this project is consistent with the following land use vision of the Masterplan.

 Open space is provided through protection of valuable natural resource lands, conservation of sensitive natural features and provision of active open space for recreation and community gatherings. Continuation of Memorandum Ref: ARC Summary of Position Statements - Application No. 2017-30 February 9, 2018 Page 10 of 11

 New development respects and protects Guam's cultural heritage, following compact, village-scaled patterns and walkable neighborhoods.

The project is consistent with the following Policy:

 Policy H-8 Adopt development standards that promote innovation in housing, such as small lot development, flexible setbacks, attached single family residential development, mid-rise development, mixed-use buildings, clustering and other measures that support design creativity.

The applicant will be required to comply with the following Policy

- Policy H-9 Provide a requirement or incentives for inclusion of affordable housing in larger residential developments. For example, consider a requirement or incentives to provide at least 15% of housing units built at a price affordable to households.
- (e) That, as to variances from the restrictions of Section 17203 of this Title, the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach area upon which the building is to be constructed, and that such building will not interfere with or adversely affect the surrounding property owners' or the public's right to an untrammeled use of the beach and its natural beauty.

Preservation of our island's natural resources and uses to include its view scape are important to our island and its economy. Bureau is concern over the height of buildings that will be located at Ukudu Dededo and potential visual impacts to the Dos Amentes cliff line. The Bureau as been consistent with protecting the natural beauty of the cliff line all along the western coast.

The Bureau is concerned that this development will have a cumulative impact on Guam's scenic resources. Guam's enforceable policy under Visual Quality state that visually objectionable uses shall be located to the maximum extent practicable, so as not to degrade significant views from scenic overlooks. Effects to the natural charm of the cliff line is likely to be seen from the Adelup Park and Hall of Governors overlook. Therefore, in order to preserve and maintain its visual quality, the Bureau recommends for the applicant 1) reduce height of buildings the while staying within the current design footprint; and/or 2) add appropriate vegetative native forest buffers to between the structures and the westward cliff line as to obscure these structures from sight.

The Bureau believes there will be no significant impacts associated with this proposal regarding beach areas and the untrammeled use of the beach, however, the Bureau is concerned of the incremental and cumulative development will have on visual quality.

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Based on the variance test, The Bureau recommends Conditional Approval for the Height and additional floors variance request as set out in the zoning code of Territory of Guam based on the aforementioned requirements. Please do not hesitate to contact Mr. Edwin Reyes, GCMP Administrator or myself for any questions.

As government officials, it is our responsibility to ensure that the construction and operations of this proposal endeavor are in a manner designed to protect the public health, safety and to promote the public welfare and convenience. We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner.

DEPARTMENT OF PARKS AND RECREATION (DPR):

DPR reviewed the subject application by Taniguchi Ruth Makio Architects for conditional use of subject Lots and have no objection to the approval of this application. However, subject project will need to be surveyed due to the fact that these lots may have potential to certain historic properties. The 1954 map show that part of the Harmon Air Force Base had encroached these lots from the northeast end and most of the lots there remained untouched. Dos Amantes Residence Plan will also need to be reviewed by the Department of Parks and Recreation Administrator to verify the adequacy of the recreation areas of Dos Amantes Residence.

GUAM ENVIRONMENTAL PROTECTION AGENCY (GEPA):

Has not submitted Position Statement as of Staff Report date

DEPARTMENT OF AGRICULTURE (DoAg):

Has not submitted Position Statement as of Staff Report date

DEPARTMENT OF CHAMORRO AFFAIRS (DoCA):

Has not submitted Position Statement as of Staff Report date.

GUAM FIRE DEPARTMENT (GFD):

Has not submitted Position Statement as of Staff Report date.

DEPARTMENT OF PUBLIC HEALTH AND SOCIAL SERVICES (DPH&SS):

Has not submitted Position Statement as of Staff Report date.

GUAM PUBLIC SCHOOL SYSTEM (GPSS):

Has not submitted Position Statement as of Staff Report date.

Attachments: ARC Position statements CC: Executive Secretary, GLUC

Eddie Baza CalvoGovernor of Guam



Grad

Carl V. Dominguez
Director
Manuel Q. Cruz
Deputy Director

Ray Tenorio
Lieutenant Governor

Government of Guam
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NOV 2 7 2017

MEMORANDUM

TO:

Chairman, Guam Land Use Commission

VIA:

Executive Secretary, Department of Land Management

FROM:

Director, Bureau of Statistics and Plans

SUBJECT:

DLM Application No. 2017-30; Location: Lot(s) 5040-11 and 5040-12

Harmon; Applicant: NPLJ, LLC. (Dos Amantes Residence) Represented by Tanaguchi Ruth Makio Architects (TRMA); Proposed Use: Zone Variance for Height increase and the additional floors in the "M-1" Light Industrial Zone

Håfa Adai! The applicant, NPLJ, LLC represented by Mr. Michael Blas Makio, AIA, LEED AP of Tanaguchi Ruth Makio Architects (TRMA), is requesting a zone variance for Height in the "M-1" Light Industrial Zone on Lot(s) 5040-11 and 5040-12 in the Ukudu Harmon area within the Municipality of Dededo. According to Mr. Makio, the proposal is to exceed the allowed three (3) story floors to include another four (4) stories for a total of seven (7) floors. The allowable height is 30 feet and this project's requested height is 75 feet, which would be a variance of 45 feet over the allowable height limit.

In addition, each building will have 70 units total, with the level ground parking set at 52 stalls per building. The breakdown per building is as follows: the 1st floor will be for parking, the 2nd through 6th will have 12 units per floor (60 units total) and the 7th floor will include 10 (4 bedrooms). The proposed project also includes 950 total parking spaces and amenities such as a basketball court (half court), a tennis court, swimming pool, community center, and a children play area.

The subject lot is located westward of the Puntan Dos Amantes (Two Lovers Point) entrance within the area known as Ukudu-Harmon Village along Route 34. The subject lot had been cleared on at least two occasions (late 1940 and mid 1970) by the Air Force and its topography is fairly leveled. The applicant's property is approximately 69,392 square meters or 747,000 square feet, which is approximately 17.14 acres in size.

Historically these two properties were a part of the Harmon Annex and was included as part of the United States Air Force Installation Restoration Program. In July 2002 this property

was given back to the original landowners. According to the applicant, "the homes on the adjacent parcels were analyzed and were part of the return of excess lands. The subject properties were not included in the list of seven (7) areas of concern (ARC) for the Harmon Annex/ Harmon Village and therefore would not require mitigation work".

The Guam Environmental Protection Agency (GEPA) Environmental Impact Assessment dated October 1999 states in part that; "the project site is located on the former site of the Harmon residences which were military single family homes...." Also, that mitigation measures was taken into account and posed no current or future risks to human health and the environment (excerpt taken within the July 2002 Air Force Final Record of Decision).

The Bureau of Statistics and Plans (Bureau)has completed its review of the subject application and provides the following comments.

Land Use. The Bureau finds that the proposed project is within the Tourist/Resort category according to the North and Central Guam Land Use Plan (NCGLUP) Future Land Use Map designations. The NCGLUP is approved as an element of the Guam Comprehensive Development Plan (GCDP). The subject property is identified as "Tourist/Resort" designation in the Future Land Use Map of the NCGLUP, as stated in Policy LU-1 (f).

Tourist/Resort: The Tourist/Resort land use category applies to areas needed for commercial uses to serve the traveling public, including hotels/motels, condominium-hotels, single family and multiple family residential uses, golf courses and other typical resort services and retail uses. These categories are located primarily along the shoreline and include existing and future tourist and resort areas.

The Bureau has determined that the applicant's multi-level dwelling is consistent with the North and Central land-use plan.

Aquifer Protection. The subject property is located within the boundary of the Ground Water Protection Zone of the Northern Guam Lens Aquifer (NGLA) so any groundwater contamination can have adverse impacts. The aquifer is an essential resource for Guam and is the primary source of drinking water for eighty percent of the island population. Moreover, the U.S. Environmental Protection Agency has designated the NGLA a sole source aquifer for Guam's drinking water. Therefore, it is of paramount importance to prevent sources of contamination from entering Guam's water supply.

The applicant is required to comply with Chapter 10 Section 10100 –101114 of the Guam Soil, Erosion, and Sediment Control Regulation during both pre and post construction of the project and all other applicable regulations regarding the protection of the NGLA.

Erosion Control. The alteration from vegetated areas to impervious surfaces such as buildings, driveways, parking lots, roads and other surfaces that prevent water from filtering into the ground greatly increases runoff during heavy rains or storm events. Studies show

that runoff and subsequent erosion and flooding can be directly correlated to increased impervious surfaces. Controlling erosion and sediment runoff is a major factor in the protection of Guam's vital water and other natural resources.

The Bureau requires the applicant to implement best management practices on site to control erosion and sediment before, during and after construction of the project. The applicant is advised to consult with Guam EPA for effective implementation of BMPs. These practices may include but are not limited to the following:

- 1. Install perimeter sediment controls to retain or filter concentrated runoff from disturbed areas to trap or retain sediment before it leaves the residential property.
- 2. Minimize unnecessary clearing and grading to preserve existing natural areas.
- 3. Stabilize construction entrance and install necessary perimeter controls and diversions.
- 4. Disturbed areas shall be stabilized as soon as feasibly possible after construction.
- 5. Steep slopes shall be protected from erosion by limiting clearing of these areas.
- 6. Where feasible, schedule construction during dry season.

For detailed information on the above listed practices, we refer the property owners to the CNMI and Guam Stormwater Management Manual, which may be obtained from our website www.bsp.guam.gov under the Guam Coastal Management Program.

Low Impact Development (LID). The project site lies within the Northern Watershed. This area has seen an increase in impervious surfaces throughout the years. Over twenty nine percent (29.42%) of Northern Watershed is developed and 15.05% is impervious. More development means more impervious surfaces, which translates into a greater risk for increased flooding and decreased water quality. Areas with impervious surface rates approaching or exceeding 12 percent to 15 percent will likely experience negative impacts to water quality. Severe degradation can be expected when rates reach 25 percent. In between the years 2005 and 2011, the impervious surface area increased by more than 5.58% according to National Oceanic Atmospheric Administration's (NOAA) Coastal Change Analysis Program (C-CAP). In order to minimize negative impacts best management practices should be incorporated.

The LID approach works with nature to manage stormwater as close to its source as possible. LID employs principles such as preserving and recreating natural landscape features and minimizing the use of impervious surfaces to create functional and appealing site drainage that treats stormwater as a resource rather than a waste product. Impervious surfaces from roads, parking lots, driveways, sidewalks, and rooftops accelerate stormwater runoff.

The Bureau is concerned that once impervious surfaces are installed, pollutants are easily washed into the aquifer. If not managed, this activity can adversely impact Guam's drinking water source and surrounding neighbors if measures are not in place to manage runoff on the property. The applicant is in an area that has seen minimal development and strongly

recommends that caution be exercised and that any stormwater drainage carrying pollutants may occur causing a negative impact to the abutting property and the NGLA.

The Bureau applauds the applicants attempt to include smart growth features into the site plans. The Bureau acknowledges that the allowable uses and permitted density based on the zoning law would not be the most appropriate use of land and would not provide adequate open spaces and other natural and physical benefits. The Bureau recommends the applicant provide additional "green" features by implementing island bioretention, permeable parking and walkways, living roofs, grassed swales and/or rain gardens as a means achieve even greater stormwater management on their property. These approaches will add great benefits such as low maintenance, energy savings, aquifer recharge, beautification, and neighborhood collaboration. An electronic file of the guidebook "Island Stormwater Practice Design Specifications" is available on the Bureau's, Guam Coastal Management Program's website www.bsp.guam.gov.

Historical and Archaeological Resources. The Bureau recommends that the applicant provide coordination with Department of Parks and Recreation, State Historic Preservation Office to ensure the preservation, protection, excavation, and evaluation of specimens and sites pursuant to Historical Objects and Sites, 21 GCA, Chapter 76.

Zone Variance consideration: According to Ref: BP 84-0242 of the Attorney General Opinion all the requirements contained in section 17502 must be met before a variance can be granted. Section 17502 of the zoning law provides that no variances may be granted unless it meets the four test of hardships.

(a) That the strict application of the provisions of this Title would result in practical difficulties or unnecessary hardships inconsistent with the general purpose and intent of the law:

The purpose of the law is to "establish certain minimum regulations for the protection and promotion of the public health, safety and general welfare of the people of the Territory of Guam, which regulations are deemed necessary in order to encourage the most appropriate use of land, to provide adequate open spaces about buildings for light and air, to prevent undue concentration of population, and to assure adequate provisions for community utilities and facilities such as water, schools, parks and other public requirements." In this case, the Bureau recognizes and is concerned that a practical hardship will be placed on the environment if the applicant builds within the allowable density and permitted uses, which would result in the loss of open space of 92% of the subject lot. Thresholds of impervious surfaces has reached the tipping point in this watershed, in which maintaining 70% of open space within this property is a feature in line with the best use of this land and surrounding area.

The Bureau is believes there is adequate provisions for community services, water and parks. However, the applicant must assure they work with the Department of Education to

forecast any potential increase in demand for education services in the surrounding school district.

(b) That there are exceptional circumstances or conditions applicable to the property involved or to the intended use thereof that do not apply generally to other property in the same zone;

The properties were previously part of a military installation and underwent a comprehensive environmental analysis and was mitigated under the EPA superfund, approved by the U.S. EPA, and accepted by the Government of Guam as having little to no contamination in its soil. The immediate area itself was a part of single family housing so any soil contamination is minimal and poses no residential health hazards. Under Guam law, any lands returned from the military to the Government of Guam must be zone as Agriculture. As such, the designation of M1 is highly questionable, however, the Bureau does not have the research at hand to understand the reasons leading up to the current zone designation. The Bureau has determined that the applicant faces exceptional circumstances as this area beyond the 1,000-foot radius lacks any coherent zoning patterns and the current zone designation does not encourage the most appropriate use of land.

(c) That the granting of the variance will not be materially detrimental to the public welfare or injurious to the property or improvements in the zone or neighborhood in which the property is located:

This project can be deemed as precedence setting and has the potential to encourage other developers to follow similar proposals that may lead to various variances being sought. The Bureau is concerned to the impact to the skyline, and will discuss this effect further in variance test (e). In this situation, the entire area was a former military installation and not unique to the property alone. Mitigation was conducted and cleanups were done to the satisfaction of the U.S. EPA and acceptable to the Government of Guam. The Bureau hopes that this project can serve as an example for future development in surrounding areas to develop in a responsible manner that protects open spaces and natural resources such as our Norther Lens Aquifer.

(d) That the granting of such variance will not be contrary to the objectives of any part of the "Master Plan" adopted by the Commission or Legislature

The applicant's proposal is to develop multi family dwelling units. The objectives of all masterplans is to build in an orderly manner that would be the basis for all future developments in the surrounding area. The North and Central Guam Land Use Masterplan calls for Tourist/Resort in which this project is consistent with the following land use vision of the Masterplan

Open space is provided through protection of valuable natural resource lands, conservation
of sensitive natural features and provision of active open space for recreation and
community gatherings.

• New development respects and protects Guam's cultural heritage, following compact, village-scaled patterns and walkable neighborhoods.

The project is consistent with the following Policy:

 Policy H-8 Adopt development standards that promote innovation in housing, such as small lot development, flexible setbacks, attached single family residential development, mid-rise development, mixed-use buildings, clustering and other measures that support design creativity.

The applicant will be required to comply with the following Policy

- Policy H-9 Provide a requirement or incentives for inclusion of affordable housing in larger residential developments. For example, consider a requirement or incentives to provide at least 15% of housing units built at a price affordable to households.
- (e) That, as to variances from the restrictions of Section 17203 of this Title, the proposed building will substantially enhance the recreational, aesthetic or commercial value of the beach area upon which the building is to be constructed, and that such building will not interfere with or adversely affect the surrounding property owners' or the public's right to an untrammeled use of the beach and its natural beauty.

Preservation of our island's natural resources and uses to include its view scape are important to our island and its economy. Bureau is concern over the height of buildings that will be located at Ukudu Dededo and potential visual impacts to the Dos Amentes cliff line. The Bureau as been consistent with protecting the natural beauty of the cliff line all along the western coast.

The Bureau is concerned that this development will have a cumulative impact on Guam's scenic resources. Guam's enforceable policy under Visual Quality state that visually objectionable uses shall be located to the maximum extent practicable, so as not to degrade significant views from scenic overlooks. Effects to the natural charm of the cliff line is likely to be seen from the Adelup Park and Hall of Governors overlook. Therefore, in order to preserve and maintain its visual quality, the Bureau recommends for the applicant 1) reduce height of buildings the while staying within the current design footprint; and/or 2) add appropriate vegetative native forest buffers to between the structures and the westward cliff line as to obscure these structures from sight.

The Bureau believes there will be no significant impacts associated with this proposal regarding beach areas and the untrammeled use of the beach, however, the Bureau is concerned of the incremental and cumulative development will have on visual quality.

Based on the variance test, The **Bureau recommends Conditional Approval** for the Height and additional floors variance request as set out in the zoning code of Territory of Guam based on the aforementioned requirements. Please do not hesitate to contact Mr. Edwin Reyes, GCMP Administrator or myself for any questions.

As government officials, it is our primary responsibility to ensure that the proposal and operations of this proposed endeavor are in a manner designed to protect the public health, safety, and to promote the public welfare and convenience. We also encourage the applicant to protect Guam's natural resources and to ensure they are used in a sustainable manner. Si Yu'os Ma'ase'.

EARL V. DOMINGUEZ

cc: GEPA

DPR

DPW

GWA

GPA



Governor

Ray Tenorio

Lt. Governor

Department of Parks and Recreation Government of Guam

490 Chalan Palasyo, Agana Heights, Guam 96910 Director's Office: (671) 475-6288 Parks Division: (671) 475-6291 Guam Historic Resources Division: (671) 475-6294/5

Facsimile: (671) 477-2822



William N. Reyes
Director
John P. Taitano
Deputy Director

In reply refer to: RC 2017-0851

September 11, 2017

Memorandum

To:

Executive Secretary, Guam Land Use Commission

From:

Director, Department of Parks and Recreation

Subject:

Application No. 2017-29: Application for Conditional Use of Lot 5040-11 and

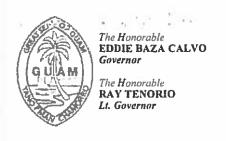
5040-12: Dos Amantes Residence, Guam

We reviewed the subject application by Taniguchi Ruth Makio Architects for conditional use of subject Lots and have no objection to the approval of this application. However, subject project will need to be surveyed due to the fact that these lots may have potential to certain historic properties. The 1954 map show that part of the Harmon Air Force Base had encroached these lots from the northeast end and most of the lots there remained untouched. Dos Amantes Residence Plan will also need to be reviewed by the Department of Parks and Recreation Administrator to verify the adequacy of the recreation areas of Dos Amantes Residence.

Should you have any questions, please do not hesitate to call us.

Sincerely,

1/16







GLENN LEON GUERRERO
Director
FELIX C. BENAVENTE
Deputy Director

MEMORANDUM

TO:

Director, Department of Land Management

FROM:

Director

SUBJECT:

Applicant: NPLJ, LLC

Application: 2017-30

Lot:

Lot 5040-11 and 5040-12, (Tamuning & Dededo)

Buenas yan Hafa adai! Applicant, NPLJ, LLC is requesting a height variance for the proposed construction of six (6) multi- family residential units (Dos Amantes Residences), along Ukudu area. Each building is approximately 75 feet in height and to be constructed on Lot Nos. 5040-11 and 5040-12, east of Route 34, is within the municipalities of Dededo and Tamuning. The total area is 747,000 sq. feet (69,392 sq. meters). The proposed project is to design and build 6 (six) new seven- storey multi- family residential buildings with landscaping and recreational amenities that will also include business spaces (24,800 square feet) along with 432 dwelling units on six levels above a 52- stall parking garage.

Attached requirements and conditions provided from the Department of Public Works, ("DPW") are as follows:

A. Incorporate the design of the pool for kids and adults in the development plan. Pool must be ADA compliant.

DPW recommends approval, subject to the comments reviewed by the Application Review Committee (ARC) with conditions that building permit application must incorporate all the necessary engineering disciplines needed in the design drawings. Drawings must also conform to the latest building code edition and include the applicable rules, regulations and ADA requirements.

Should you have any questions, please contact Ms. Linda Ibanez, In- charge of CIP or Maryrose M. Wilson, Engineer at the Division of Capital Improvement Projects (CIP) at 646 - 3209 or 646 -3224.

GLENX LEON GUERRERO

Attachments: Libarez/ MRWilson The Department of Public Works, (DPW) has completed its review of the subject application and has no objection to the applicant's request provided the following conditions must be in place:

1. STORM WATER DISPOSAL

Show storm drainage disposal with details in the final drawings and to be supported by calculations. No run off in the surrounding properties or the streets.

2. TRAFFIC GENERATIONS

A traffic impact analysis study must be coordinated with DPW, Division of Highways (traffic management control section).

3. PARKING REQUIREMENTS

Show parking lay out and detail of parking stalls (compact, standard and accessible stalls), and must meet the American Disability Act (ADA) requirements.

4. ACCESS ROAD

The entrance/ exit, sidewalks and pedestrian must be wide enough for public access and shall be in conformance to the Guam Highway Master Plan. Must be coordinated with DPW, Division of Highways (rights of way section).

5. STREETLIGHTS

The developer shall be responsible for the streetlights and must be coordinated with DPW. Division of Highways (traffic management control section).

6. FLOOD ZONE

The applicant, is required to hire a professional engineer to perform hydrologic and hydraulic analysis which meet the current Federal Emergency Agency (FEMA) for flood insurance study standards and must be licensed to do business in Guam.

7. PARKS AND PLAYGROUNDS

The construction of parks and playgrounds including landscaping must be design in detail and make use of its physical and biological resources which will have a great impact to the environment.

8. SOLID WASTE

Provide solid waste composition

9. TRANSPORTATION

To coordinate with DPW, Bus Operations Divisions for the bus shelter designated location, and must not hinder the (entry/exit) public access to the housing area.

10. OTHERS

Comply with all the Geotechnical requirements related to site preparations.

Ecological planning is needed to ensure the conservation of its resources.

All structure, including accessory, structures, shall not cover more than 30% of the area.



GUAM POWER AUTHORITY

ATURIDAT ILEKTRESEDAT GUAHAN P.O.BOX 2977 • AGANA, GUAM U.S.A. 96932-2977

August 15, 2017

MEMORANDUM

To:

Chairman, Guam Land Use Commission

Executive Secretary, Guam Land Use Commission

From:

General Manager

Subject:

Lots 5040-11 and 5040-12, Municipality of Dededo, (NPLJ, LLC); Zone Variance

Application to develop 6 each 7-story, 72 unit condominium buildings. Application No.

2017-30

Guam Power Authority has reviewed the application described above and submits the following position statement:

A. Comments and Recommendations Concerning GPA requirements:

- 1. Customer is required to comply with the following pursuant to the National Electric Code, National Electric Safety Code and GPA's Service Rules and Regulations:
 - Coordinate overhead/underground power requirements with GPA Engineering for new structures.
 - Maintain minimum clearances as defined by the current edition of the National Electrical Safety Code and National Electrical Code.
 - Maintain adequate clearance between any structures and electric utility easements in accordance with NESC and GPA requirements.
 - Developer/Owner shall provide necessary electric utility easements to GPA prior to final connection.
 - Provide scheduling and magnitude of project power demand requirements for new loads.
 - All relocation costs for GPA's facilities, if necessary, is 100% chargeable to the applicant including but not limited to labor and materials.
- 2. Primary distribution overhead and underground line extensions and GPA service connections must adhere to the guidelines outlined in the current issue of GPA's Service Rules and Regulations.
- 3. A system impact assessment may be required to determine the effect of this facility on GPA's existing power facilities.
- 4. All costs associated with the modification of GPA facilities shall be chargeable to the customer. This includes relocation costs, new installation costs and any required system upgrades.

B. General Comments

GPA has no objection to the request subject to the conditions cited above.

INFRASTRUCTURE CERTIFICATION FORM

Agency Certifying: Guam Power Authority

Applicant: NPLJ, LLC

Location: Lots 5040-11 and 5040-1 Type of Application: Zone Varianc GLUC/GSPC Application No. 2017 Brief Project Description: To develop (6) 7-storey, 72 unit con	e 7-30						
For the purposes of this Certification INFRASTRUCTURE include, but a and facilities; sewer and liquid wa lines and facilities; schools; health traffic and street lights; parks and	are not limited to: pov aste disposal; storm a facilities; police an	ver lines poles a water disposal; d fire fighting s	nd facilities; water solid waste disposa	l; telephone			
1. I hereby certify that the rec INFRASTRUCTURE are of Yes	currently AVAILAB			project:			
 If the answer to #1 above is YES, then: I hereby certify that the required GOVERNMENT SERVICES, FACILITIES and INFRASTRUCTURE are currently ADEQUATE to support this project: 							
Yes 🔲	No						
3. If the required GOVERNM place are NOT AVAILAB services, facilities and infra are currently available and	BLE or they are AVA astructure that are needed.	ILABLE, BUT eded, the estimat	NOT ADEQUATE ed cost thereof and v	, itemize the whether funds			
Services, Facilities and Infrastructure Needed	Cost of Upgrades	Funds Available	Date Available	Funds Identified			
Please see comments below							
I hereby certify that the foregoing is	s true and correct to t	he best of my kn	owledge.				
JOHN M. BENAVENTE, P.E. General Manager		_8	21 17 Date				

Comments:

Based on a preliminary inspection of the site, the electrical facilities <u>may</u> require upgrading to meet the demand of the proposed project. A system impact assessment maybe required to determine the effect of this facility on GPA's existing power distribution system. The applicant will be responsible for the cost of any required system upgrade.



Gloria B. Nelson Public Service Building 688 Route 15, Mangilao, Guam 96913

mole !

RECEIVED REAL OCT 06 2017

MEMORANDUM

September 29, 2017

TO:

Michael Borja, Director, Department of Land Management

FROM:

Miguel C. Bordallo, P.E., General Manager / MX

SUBJECT:

Position Statement on Zone Variance Application No. 2017-30 for

Lot 5040-11 and Lot 5040-12, in the Municipality of Tamuning and

Dededo

APPLICANT(S):

NPLJ, LLC represented by Taniguchi, Ruth, Makio Architects

The Guam Waterworks Authority (GWA) has reviewed the applicant's request for a zone variance for height for the proposed construction of six, multi-family residential buildings (Dos Amantes Residences), in an "M-1" (Light-Industrial) zone.

This memorandum shall serve as GWA's position statement to the above zone variance request related to availability of water and sewer infrastructures to serve the above subject lot. This position statement shall not be construed as notice that water and sewer systems have the capabilities to accommodate the proposed development including fire flow without on-site or off-site improvements. Any extension of the water and sewer systems and/or capacity upgrades required to serve the property shall be subject to the rules and regulations of GWA. Any required extension to the existing facilities to serve the subject properties shall be at expense of the applicant.

Given the information provided in the application and field observations, the following comments are conditions for GWA's position in favor of the approval of this zone variance application:

1. The applicant must provide GWA with site development plans to construct the proposed development. The applicant is responsible for the water and sewer main extensions necessary to provide service to the proposed development. The site development plans must illustrate the proposed point of connection for water and sewer and is subject to GWA inspection and approval. Submittals shall include water and sewer design calculations and complete drawings and specifications. Design calculations shall include proposed water demand calculations including fire-flow and sewer production calculations.

FICENCE

Applicant(s): NPLJ, LLC represented by Taniguchi, Ruth, Makio Architects

2. GWA requires the applicant to coordinate with the GWA Engineering Department at least six months prior to building permit application submittal. Discussions shall include the proposed water demand and sewer production calculations in order to determine if existing facilities can accommodate the proposed development and if any off-site infrastructure improvements to increase capacity are necessary.

Color of the

The development might be required to provide a looped water system with connections to the water main along Route 3 and to the water main along Route 1, in order to provide sufficient water pressure to the development.

3. The off-site water and sewer infrastructure improvements will require prior approval from GWA, must meet GWA standards, be constructed in the public easement or right of way, and shall be subject to inspection by GWA. Any infrastructure improvements will be at the expense of the applicant. GWA's approval of the occupancy will be contingent upon the completion of offsite improvements.

The developer shall register maps and documents for new public rights of way or utility easements with the Department of Land Management and provide copies to GWA.

- 4. Developers and subdivision owners who have installed water and/or wastewater pump stations whose sole purpose is to serve only the proposed development or subdivision, and consequently have no excess capacity to serve customers beyond the boundaries of said development or subdivision, shall be required to maintain their own pump station(s) and force main(s) in proper working condition to the satisfaction of GWA.
- 5. A construction manager hired by the developer shall oversee water and sewer infrastructure construction. A quality control document containing construction records and pictures shall be provided to GWA, to document construction practices and installed materials. GWA shall be provided with construction schedules, so that inspections may be conducted during construction.
- 6. The applicant shall install GWA water meters in the public right of way or easement.
- Backflow prevention devices are required for non-residential activities or when a development will be served by a master meter.
- 8. New development is subject to water and/or sewer system development charges.

Page 3
GWA Position Statement
ARC Application No. 2017-30
Applicant(s): NPLJ, LLC represented by Taniguchi, Ruth, Makio Architects

- 9. Privately-owned water tanks might be limited to a maximum fill rate to avoid adverse impacts to the public water system.
- 10. Sewer load discharges to the public sewer system might be limited to certain times of day at certain rates to avoid adverse impacts to the receiving public sanitary sewer system.
- 11. Certain activities are subject to sewer pre-treatment requirements. Grease traps or interceptors are required for food service establishments. Oil-water separators are required for vehicle maintenance activities.
- 12. Only wastewater shall be discharged to the sanitary sewer system. Storm water, pool water, and pool backwash water discharge to the sanitary sewer system is prohibited.
- 13. After a GWA utility service account is opened, the account holder is responsible for informing GWA of onsite activity changes that may affect the account's classification and utility service requirements. Activity changes include, but are not limited to, laundry, food service, and vehicle maintenance activities.

This GWA Position Statement shall remain valid for 365 calendar days from the date of this response. Please contact GWA Engineering Division regarding water and sewer system improvement design and construction standards and procedures. For additional information please contact Mauryn McDonald, P.E., Permits and New Area Development Supervisor, at 300-6054.

Ω.		
*		

DOS AMANTES RESIDENCES

LOT NUMBERS 5040-11 & 5040-12 M-1 Light industrial Request for Height Variance

Lot Area: LOT 5040-11 (34,696sm) + LOT 5040-12 (34,696sm) = 69,392 sm

- 1. Project Background
- II. Project Characteristics
- Collaboration with supporting agencies
- IV. Justifications On Height Variance





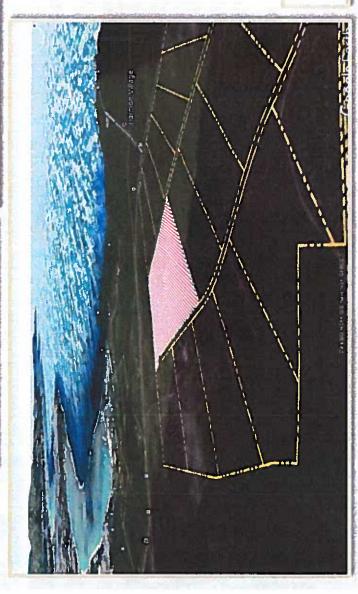
PROJECT BACKGROUND

- The property is a total of 17.14 acres, located in Ukudu on Route 34 approximately 1000 m or 0.64 miles East from Two Lovers Point and is zoned M-1 Light Industrial.
- Our site was part of the Harmon Annex developed by the 2002, It was returned and the ROD report noted two nearby JSAF in the mid-1940s for housing and admin facilities. In sites within the Harmon Annex were found to contain brownfield contamination.
- There is minimal to no development within the location besides some ranch houses.
- overgrowth and its proximity to Tanguisson Beach (an area -Much of Rte. 34 is blighted with its lack of street lighting, known for criminal activities and squatters, during night)





Ariel View



PROJECT CHARACTERISTICS



Parking:
Unit Parking:
Visitor Parking:
Maintenance Parking:

Visitor Center Parking: Total Parking Spaces:

420 dwellings at 2:1

8 visitor spaces x 6 condos

840 spaces 48 spaces

2 spaces

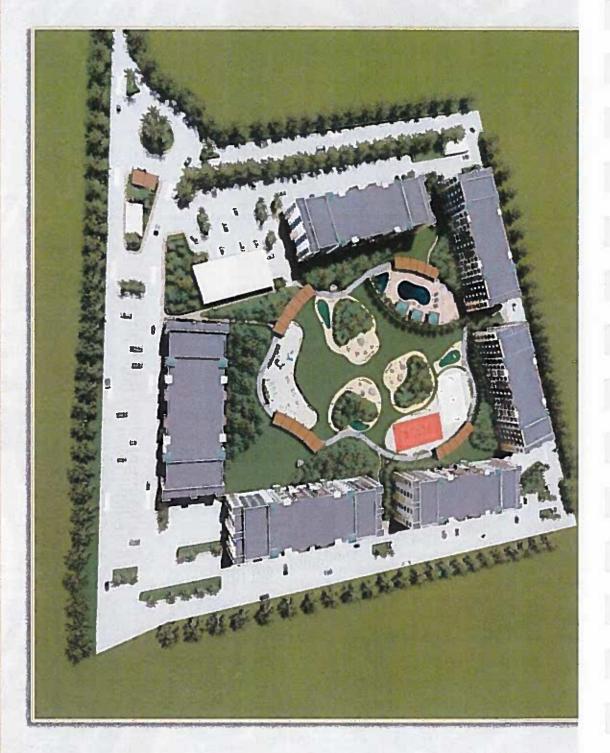
926 spaces 36 spaces

11

Amenities:

- •Pool
- •Kid's Pool •Basketball Court
- Tennis Court
- •Playground •Community Garden
- Walking/Jogging PathNeighborhood ServicesDaycare
- Convenience stores
 - •Hair/nail salon •Pharmacy
- Coffee shopCommunity Center

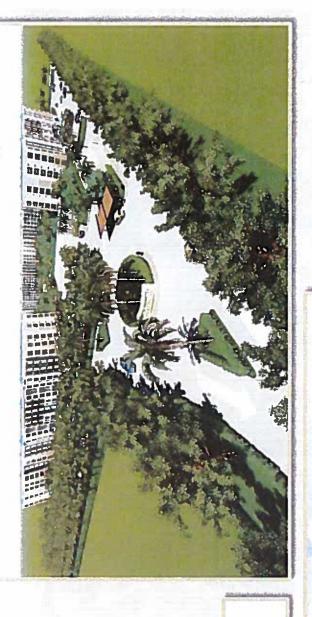




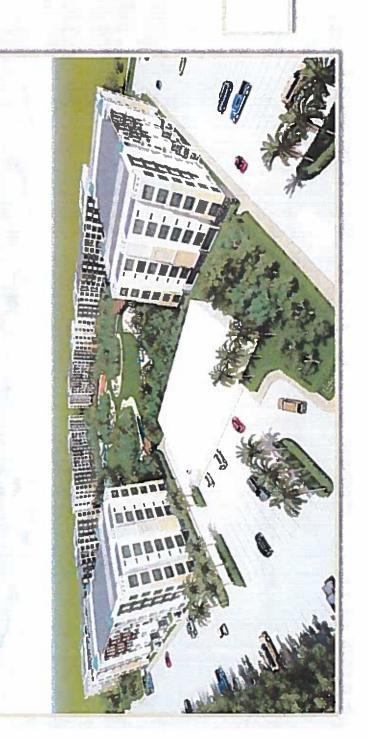
Density:Allowable Density:
Density Provided:

747,000 sf/1250 sf 70 units/building x 6 buildings

= 598 units allowable = 420 units



Entrance View



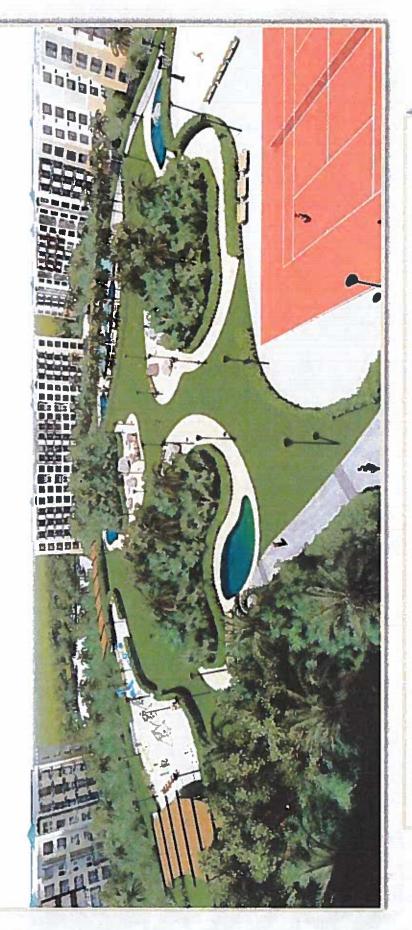
Isometric View





Rendering – Building Street View





Rendering – Plaza View

Smart Growth / Sustainable growth principles are applied in the masterplan to create a neighborhood environment with onsite services, recreational and exercise amenities







Rendering – Rock Garden View 2



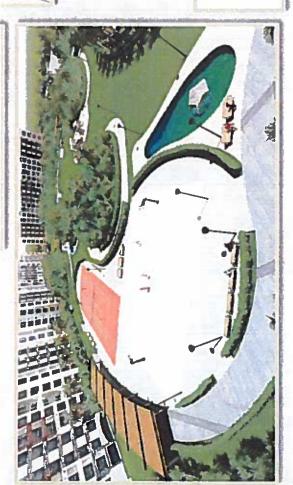


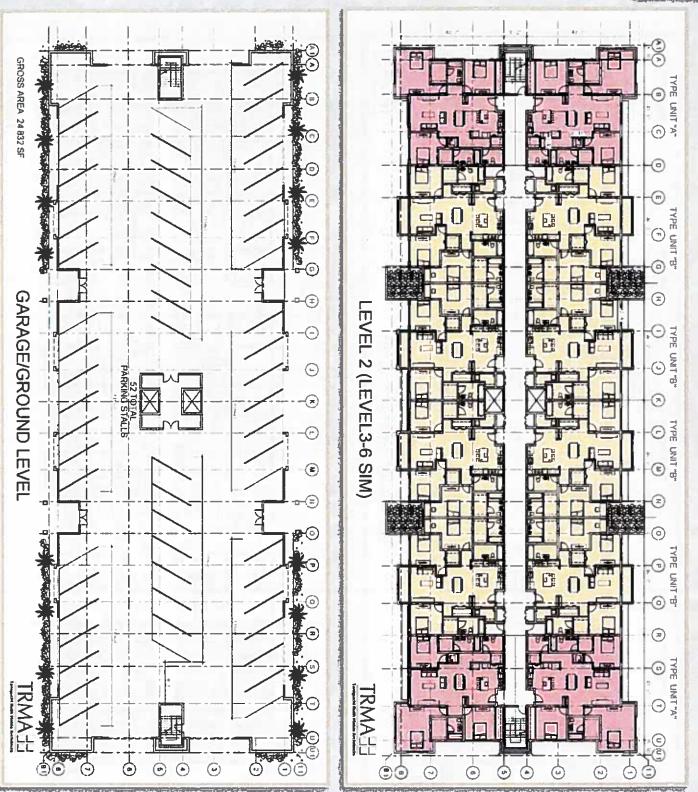


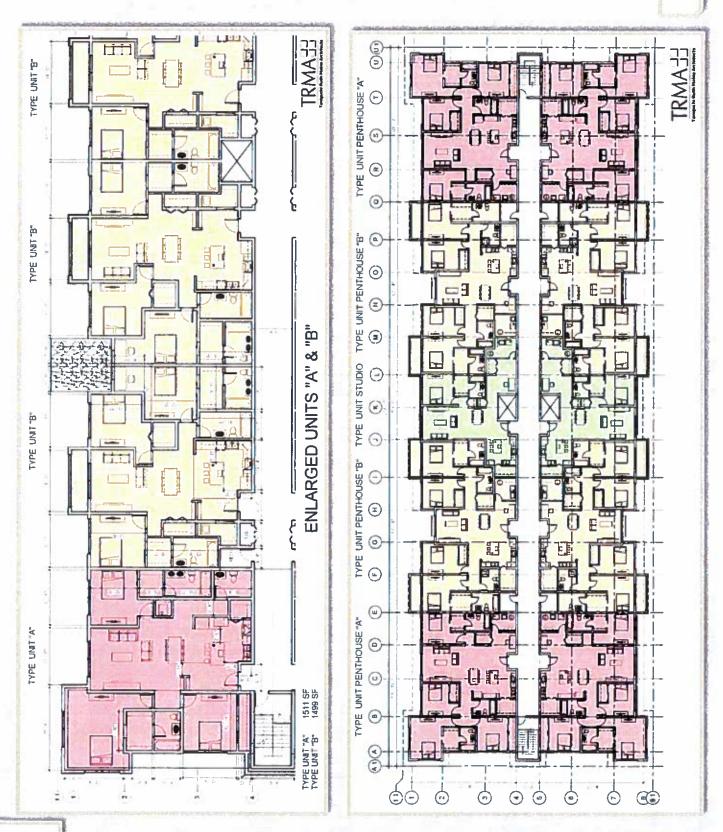
Rendering – Sports Courts



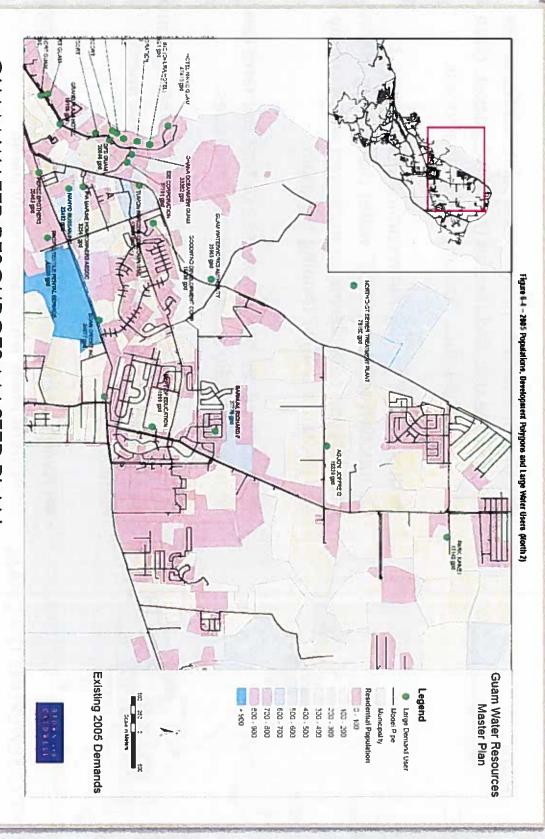
Rendering – Pool







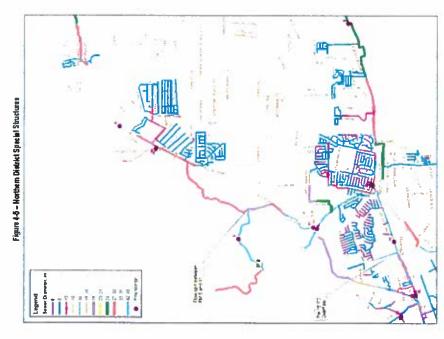
III COLLABORATION WITH AGENCIES



GUAM WATER RESOURCES MASTER PLAN

III COLLABORATION WITH AGENCIES

GWA



EXIST'G SEWERLINE DIAGRAM

- The civil engineer provided calculations for water and sewage use, included in the GLUC packet. GWA will verify capacities during the design process.
- There is a 6" water main coming from Route 3.

 Connection to the new 16" water main along Marine

 Drive maybe considered for improved water supply
 and pressure and/or looping the main.
- Project will be built in phases so that demand can be met gradually as infrastructure improves.
- There is an existing 30"dia, sewer main along Route 3 to the Northern District Wastewater Treatment Plant.
- GWA is augmenting and improving the wastewater treatment plant with a secondary plant.

III COLLABORATION WITH AGENCIES

GPA

- Existing OH power lines along the roads surround the proposed project site.
- GPA has announced they are adding a new Power plant adjacent to GRMC.

EFA

- No significant Flora or Fauna found within the site.
- plateau so we would have to properly contain storm water runoff onsite A. Marquez, noted that most of Puntan Dos Amantes is located on a drainage

DPW

Intersections development will still be of a level of service that is acceptable on affected Our engineer calculated that the additional traffic generated by the

AGENCY RESPONSES

to the project GWA, GPA, DPW, BSP and DPR issued position statements with no objection

IV JUSTIFICATION ON MEIGHT VARIANCE

The six proposed buildings heights are 75'-0", 45'-0" above the allowable height for M-1 zoning.

Each building = 7

= 7 stories

= Covered Parking = Dwelling Levels (6 x 10

Floor 2-7

Total

Floor 1

(6 x 10'-6") 63'-0"

75'-0"

variance application for the need to increase the vertical height of the project's buildings and the benefits resulting Below is a summary of justifications from the height therein.

IV JUSTIFICATION FOR HEIGHT VARIANCE

- inconsistent with the general purpose and intent of the law would result in practical difficulties or unnecessary hardships A. That the strict application of the provisions of Section 61617, 21
- requests 420 units, 30% below the allowable. Without building property, covering more of the green space available reasonably taller, we would have to build over much more of the Zoning density allows for 598 units while the design only
- infrastructure the site while achieving smart growth goals by sharing The building's height helps preserve the quality of greenery to
- lowers cost to the develop the site. user loads in one area while using larger power, water and sewer lines. This *increases the efficiency* of the infrastructure and also Building taller will optimize the infrastructure by stacking the

IV JUSTIFICATION FOR HEIGHT VARIANCE

B. There are exceptional circumstances or conditions applicable to the site.

- ground level reduces exposure to lingering contaminates underground & allows intend to keep the residents health a priority. Raising the residences above contamination on nearby land. Although mitigated to EPA standards, we -As the first multi-family neighborhood in Ukudu, we face health & environmental issues on returned excess lands, with "remediated" the land to continue healing naturally.
- the site. Building vertically allows for more open/permeable space on the site to The site is on a **drainage plateau** so storm water runoff must be managed on percolate storm water runoff.
- Developing disturbed land follows smart growth principles -utilizing exist'g roads & infrastructure vs. developing on pristine land- compromising the Northern Aquifer, forests and plant life.
- The site is surrounded by H-Zone which blocks sunlight, wind & view corridors.
- The proximity to the WWTP and the upcoming secondary treatment facility potentially exposes us to chemical odors

IN JUSTIFICATION ON HEIGHT VARIANCE

detrimental to the public ... C. That the granting of Variances will not be materially

- by past masterplans positive precedent for the fabric of the community as intended corridors, prevailing winds and minimize shadows, while setting a The multifamily residences are spaced to preserve view
- crime and unwanted activities evening activities activities in the area. Bringing family friendly activity to counter make the areas safer with neighborhood residents monitoring Being one the first residential developments in this location will
- senior citizens and those without vehicles with transportation residents helping to reduce reliance on vehicles and providing Amenities for the site include mass transit/bus access for

IV JUSTIFICATION ON MEIGHT VARIANCE

- D. The granting of such Variances will be not be contrary to the objectives of any part of the Guam Master Plan.
- Our development is consistent with the M-1 Light Industrial zone which allows for any use with or without condition in Commercial Zoneswhich under item (5) of Conditional Uses allows Multifamily residences.
- preserve open space and reduce built footprints on the ground. Masterplans from BSP encourage taller multi level buildings to Both Smart Growth Planning and the Northern and Central This is intended to protect and maintain recharge for our Northern Water lens.
- retail, market, entertainment and F&B, helping reduce reliance distance of numerous job and work opportunities, healthcare, on cars and gasoline and its related environmental hazards. recommendations, this development occurs within walking Again- consistent with Smart Growth and multi-use

IV JUSTIFICATION ON HEIGHT VARIANCE

- the proposed building will substantially enhance the recreational, aesthetic or commercial value of the location... E. That, as to Variance from the restrictions of Section 61617, 21 GCA,
- play areas and walking paths provide a desirable residentia neighborhood development character and establishes a strong precedent for future As shown, the landscaping, outdoor sports and fitness amenities,
- infrastructure for neighboring properties units, helping to raise property values and the tax base. This will also enable easier connections to sewer, water and electricity revenue to the Government of Guam for the 420 executive condo The Dos Amantes Residences project will provide additional tax
- which will not be affected by this development. The only beach access near the property is Tanguisson Beach,





DS MA'ASE



